

State Metals Theft Statutes

Compiled as of June 16, 2020

© 2020 Institute of Scrap Recycling Industries, Inc. All Rights Reserved

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Introduction

All 50 state legislatures have passed laws intended to combat the growth in metals theft over recent years. These laws impose varying requirements – including purchase restrictions, recordkeeping requirements, and oftentimes reporting and hold responsibilities on scrap metal purchasers. Unfortunately from a compliance standpoint there is no uniformity between state laws, and the states constantly work to amend their laws to better address the problems they face.

All of these changes makes it increasingly challenging for recyclers to stay on top of current requirements. The purpose of this compendium is to assist recyclers in understanding the requirements imposed within their state by providing an up to date summary of the compliance requirements, organized by state. The summaries are intended to provide background information on the laws, and general assistance as to the provisions applicable.

Hints when Reviewing State Summaries:

- ***Materials Affected.*** Pay careful attention to the "Materials Covered and Other Definitions" provision at the beginning of each summary, as well as any Exemptions provisions. Different states will often use the same term ("regulated metal" being a favorite) to cover entirely different types of metals or transactions, and give varied exemptions for particular materials and entities. Some states even include a definition for "transaction" that can further limit their laws. ISRI has attempted to present the definitions and materials covered as clearly as possible; unfortunately, this occasionally means that we've had to reorder, rearrange, and even reword the definitions from how their presented in the state law.
- ***State Law References.*** Each summary contains links and references to the state code being summarized as well as any amendments passed. Links are accurate as of the date of compilation; later changes to web addresses may render such unusable.
- ***Moving within the document.*** The table of contents on the next page, as well as the "Overview of Provisions" section at the start of each summary, are set up with hyper-links so one can quickly and easily jump between the summaries and their individual provisions (e.g., "payment restrictions" or "reporting requirements").
- ***What these summaries do not contain.*** These summaries **do not** cover vehicle detitling or dismantling laws, or scrap yard / junk yard zoning and screening requirements, except where the laws covering such are intertwined with metal purchase and metal theft statutes. These summaries also do not include laws on the purchase and processing of precious metals, gems, and jewelry (often covering gold, silver, and platinum) or secondhand materials laws. If you are looking for this information, please feel free to contact ISRI directly.

We hope these summaries provide useful guidance as you work to comply with the laws within your state. Of course the summaries are not intended to serve as legal advice. As such, ISRI recommends consulting an attorney or legal advisor regarding the application of the law and any regulations to specific situations you may encounter within your own operation.

If you have any questions about any information contained within this document, please feel free to contact Danielle Waterfield, ISRI's Chief Policy Officer, at DWaterfield@isri.org, or Justin Short, Manager of Government Relations, at JShort@isri.org.

Table of Contents

State Summaries

Alabama	Page 4	Montana	Page 167
Alaska	Page 13	Nebraska	Page 170
Arizona	Page 16	Nevada	Page 174
Arkansas	Page 25	New Hampshire	Page 183
California	Page 32	New Jersey	Page 186
Colorado	Page 44	New Mexico	Page 189
Connecticut	Page 48	New York	Page 195
Delaware	Page 54	North Carolina	Page 200
Florida	Page 60	North Dakota	Page 206
Georgia	Page 68	Ohio	Page 209
Hawaii	Page 76	Oklahoma	Page 221
Idaho	Page 80	Oregon	Page 230
Illinois	Page 86	Pennsylvania	Page 238
Indiana	Page 92	Rhode Island	Page 245
Iowa	Page 97	South Carolina	Page 251
Kansas	Page 100	South Dakota	Page 260
Kentucky	Page 111	Tennessee	Page 264
Louisiana	Page 118	Texas	Page 273
Maine	Page 125	Utah	Page 289
Maryland	Page 130	Vermont	Page 295
Massachusetts	Page 136	Virginia	Page 299
Michigan	Page 138	Washington	Page 304
Minnesota	Page 149	West Virginia	Page 314
Mississippi	Page 154	Wisconsin	Page 320
Missouri	Page 162	Wyoming	Page 326

These summaries are available individually along with additional information for recyclers on each state on [ISRI's State Resources and Tracking](#) page (members only).

You can also use ISRI's publically-accessible [State Metals Theft Law Database](#) to compare provisions between the states using pre-made or custom reports.

ALABAMA

Alabama Code Title §13A, Chapter 8, Article 1A Secondary Metal Recycling §13A-8-30 to §13A-8-39

Alabama Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Registration](#)
- [Recordkeeping](#)
- [Restricted Property - Documentation](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Information Confidentiality](#)
- [Payment Restrictions](#)
- [No Purchase from Minors](#)
- [Hours of Operation](#)
- [Hold By Request](#)
- [Possession or Control of Stolen Property](#)
- [Contesting Identification or Ownership](#)
- [Liability Protection](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Metal Property" means Ferrous or Nonferrous Metals.

"Ferrous Metals" means any metals containing significant quantities of iron or steel, but excludes motor vehicles purchased in accordance with [§ 32-8-87](#).

"Nonferrous Metals" means metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum other than aluminum cans, bronze, lead, zinc, nickel, stainless steel, and alloys thereof, including stainless steel beer kegs.

Restricted Property, as used in this summary, refers to the property listed in [§ 13A-8-37.1](#):

- Catalytic convertors that are not part of an entire motor vehicle.
- Metal property of a telephone, electric, cable, or water company, another utility, or a railroad marked or otherwise identified as such.
- Copper wire that has been burned to remove the insulation.
- A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils.
- Utility access covers, manhole covers, or storm drain covers.
- Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized, or any other metal historic markers or monuments, or the attached support or post to either.
- Any metal property that has been brightly painted or marked to deter theft.
- Ventilation fans or similar fans designed to supply fresh air to workers in confined spaces such as underground mines or other similar circumstances.

"Secondary Metals Recycler" means any person, whether licensed or not licensed, who is engaged, from a fixed location or otherwise, in the business of paying compensation for Ferrous or Nonferrous Metals, whether or not engaged in the business of performing the manufacturing process by which such metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value. The term does not include a pawnbroker licensed pursuant to [§ 5-19A](#), or a licensed automotive dismantler and parts recycler as defined in [§ 40-12-410](#), unless the entities engage in the business of paying compensation for Ferrous or Nonferrous Metals.

"Personal Identification Card" means a driver's license or identification card issued by the Department of Public Safety or a similar card issued by another state, a military identification card, a passport, or an appropriate work authorization issued by the U.S. Citizenship and Immigration Services of the Department of Homeland Security.

"Verifiable Documentation" means written evidence of ownership which may be verified, including, but not limited to, receipts, bills of sale, titles, certificates of title, purchase agreements, shipping manifests, work orders, etc.

ACJIC refers to the Alabama Criminal Justice Information Center.

[back to top](#)

Exemptions

The metal theft law does not apply to purchases of metal from any of the following:

- A law enforcement officer acting in an official capacity unless investigating a compliance issue pursuant to this article or presenting Metal Property for sale.
- A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the Recycler.
- Any public official acting under a court order who has presented proof of such.
- A sale on the execution of any process issued by a court if proof has been presented.
- A manufacturing, industrial, or other commercial vendor that generates or sells regulated metal property in the ordinary course of its business.
- A municipal, county, state, federal, or other governmental entity.
- A utility company.
- A funeral home or the owner or operator of a cemetery.

[back to top](#)

Registration

Recyclers must register with the ACJIC with the business's name, address, telephone number, and the name of the owner or owners, and pay a \$250 annual registration fee.

[back to top](#)

Recordkeeping

Recyclers are required to collect the following information for any Ferrous or Nonferrous Metals purchase transaction (bolded information must be reported to the ACJIC):

- **Name and address of the Recycler;**
- Name or identification of the employee responsible for making the purchase;

- **Date and Time of the transaction;**
- **The weight, quantity, or volume, and a general physical description of the type of metal property (wire, tubing, extrusions, casting, etc.);**
- **Amount of consideration given;**
- Signed statement from the person receiving consideration stating that they are the rightful owner of the metal property or are authorized to sell the metal property;
- **Name and address of the person delivering the metal property;**
- Copy of the deliverer's Personal Identification Card, including the distinctive number from and type of ID card.
- **The vehicle license tag number and state of issue (or VIN if no tag is available), and type (automobile, pickup truck, van, truck) of the delivery vehicle.**
- Time and date stamped digital photo or video of the deliverer or of the person receiving consideration for the property delivered in which the person's facial features are clearly visible.
- Time and Date stamped digital photo or video of the metal property as delivered or sold in which the type is identifiable.
- For Restricted Property, a copy of verifiable documentation that the seller is the owner of the property (see [Restricted Property](#) provision)

[back to top](#)

Restricted Property - Documentation

For purchases of Restricted Property, as listed in [§ 13A-8-37.1](#), the Seller must provide a copy of verifiable documentation that the seller is the owner of the property unless another option is listed:

- Catalytic convertors that are not part of an entire motor vehicle.
- Metal property of a telephone, electric, cable, or water company, another utility, or a railroad marked or otherwise identified as such.
- Copper wire that has been burned to remove the insulation, unless verifiable documentation is provided that the source of the copper wire was in a building destroyed by fire.
- A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils, unless the seller either:
 - Is a licensed contractor, HVAC contractor, plumber, or electrician, and a current and valid license with number is provided and copied by the Recycler at the time of sale;
 - or
 - Has verifiable documentation, such as a receipt or work order, indicating that the condenser coils are the result of a replacement of an air conditioner unit or condenser coils performed by a licensed contractor.
- Utility access covers, manhole covers, or storm drain covers, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.
- Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized, or any

other metal historic markers or monuments, or the attached support or post to either, unless the seller is a company that deals in the manufacture or sale of such.

- Any metal property that has been brightly painted or marked to deter theft.
- Ventilation fans or similar fans designed to supply fresh air to workers in confined spaces such as underground mines or other similar circumstances.

[back to top](#)

Retention

A Recycler shall maintain transaction records for no less than 1 year from the date of the purchase transaction.

[back to top](#)

Inspection

During a Recycler's usual and customary business hours, a law enforcement officer, after properly identifying himself or herself as a law enforcement officer, has the right to inspect all purchased metal property and transaction records.

[back to top](#)

Reporting

Recyclers must transmit the following information electronically to the ACJIC database no later than 9 PM on the day of a purchase transaction.

- Name and address of the Recycler;
- Date and Time of the transaction;
- The weight, quantity, or volume, and a general physical description of the type of metal property (wire, tubing, extrusions, casting, etc.);
- Amount of consideration given;
- Name and address of the person delivering the metal property;
- The vehicle license tag number and state of issue (or VIN if no tag is available), and type (automobile, pickup truck, van, truck) of the delivery vehicle.

[back to top](#)

Information Confidentiality

All information reported by Recyclers shall be considered to be confidential and privileged and exempt from disclosure. The ACJIC shall ensure adequate safeguards are incorporated and maintained so that the data may be accessed and used only by properly authorized law enforcement agencies for the purpose of investigating thefts of Metal Property.

[back to top](#)

Payment Restrictions

No cash transactions in excess of \$500 for any Metal Property. No cash transactions in excess of \$50 for:

- Copper;
- Copper/aluminum air conditioning coils;
- Catalytic converters;
- Utility access covers, manhole covers, or storm drain covers, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.
- Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized, unless

the seller is a company that deals in the manufacture or sale of the aforementioned products.

Payment for transactions exceeding the cash thresholds must be by check payable only to the person whose information was recorded. The check shall be payable to the name and address of the seller and mailed to the seller's address or picked up in person by the seller.

[back to top](#)

No Purchase from Minors

No purchases of Metal Property from a person under 18 years old.

[back to top](#)

Hours of Operation

Metal Property may not be purchased between 9 PM and 6 AM.

[back to top](#)

Hold By Request

15 calendar day hold upon a Recycler's receipt of a law enforcement officer's written notice, delivered to the Recycler, that specifically identifies items believed stolen and subject to the hold and informs the Recycler of the information in [§ 13A-8-33](#) of the law. A law enforcement officer with reasonable suspicion to believe that any item of Metal Property in possession of a Recycler has been stolen may issue a notice. Before the original period expires, a law enforcement officer may issue a written extended hold notice, with the same information requirements as the original, extending the hold for 30 days from the Recycler's receipt of the second notice. The Recycler may not process or remove the items during the hold period unless the hold is released by a law enforcement officer. At the expiration of the hold or extended hold period, the Recycler may dispose of the Metal Property unless a court of competent jurisdiction has ordered another disposition.

[back to top](#)

Possession or Control of Stolen Property

It is unlawful for a person to possess or control the following property, as listed in [§ 13A-8-37](#), knowing or with reasonable grounds to believe it is stolen unless the property is possessed or controlled with intent to restore it to the owner (note: this list of property is similar, but not identical to, the list of Restricted Property):

- Metal property marked with the initials of an electrical company, a telephone company, a cable company, another public utility, a railroad, or a brewer.
- Any of the following, unless the seller is a company that deals in the manufacturer or sale of such:
 - Utility access covers, manhole covers, or storm drain covers;
 - Street light poles and fixtures;
 - Road and bridge guard rails;
 - Highway or street signs, traffic light signals, and traffic directional and control signs;
 - Water meter covers;
 - Metal beer kegs including those made of stainless steel that are clearly marked as being the property of a beer manufacturer;

- Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized;
- Metal property marked with the name of a government entity.
- Unused and undamaged building construction or utility materials consisting of copper, pipe, tubing or wiring, aluminum wire, or historical markers.
- A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils, unless the seller:
 - Is a licensed contractor, HVAC contractor, plumber, or electrician and a current and valid license with number is provided and copied by the Recycler at the time of sale; or
 - Has verifiable documentation, such as a receipt or work order, indicating that the condenser coils are the result of a replacement of an air conditioner unit or condenser coils performed by a licensed contractor.

[back to top](#)

Contesting Identification or Ownership of Metal Property

If a party claims ownership of Metal Property in a Recycler's possession and the Recycler contests it, the other party may bring action in the circuit court of the county in which the Recycler is located as long as they had made a timely report of the original theft to the proper authorities. The action must include a description of how the party identified the property. If the person who sold the property to the Recycler is convicted of theft or criminal mischief related to the removal of the property, the seller must make full restitution to the victim, including without limitation attorney fees court costs, property damage resulting from the theft, and other expenses.

If the lawful owner recovers stolen metal property from a Recycler who complied with the law and the seller is convicted of a violation of this article or of theft by receiving stolen property, the seller must also make full restitution including attorney's fees, court costs, and other expenses to the Recycler.

[back to top](#)

Liability Protection

A public or private owner of metal property is not civilly liable:

- To a person who is injured during the theft or attempted theft of Metal Property in any amount by the person or a third party; or
- For a person's injuries caused by a dangerous condition created as a result of the theft or attempted theft of the owner's Metal Property in any amount when the owner of the metal property did not know and could not have reasonably known of the dangerous condition.

[back to top](#)

Penalties

Except as provided below, a person who intentionally violates any provision of the law is guilty of:

- First offense: a Class B misdemeanor;
- Second offense: a Class A misdemeanor;
- Third or subsequent offense within a 10 year period: a Class C felony;

A violation of the Possession or Control of Stolen Property provision involving utility access covers, manhole covers, or storm drain covers; or involving grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized, is a:

- First offense: Class C felony;
- Second offense: Class B felony;
- Third or subsequent offense within a 10 year period: Class A felony.

Giving false information to and receiving consideration from a Recycler in return for metal property is a Class C felony.

A person releasing or using data from the ACJIC database in an unauthorized manner is subject to the provisions of [§13A-10-82](#) - Misuse of Confidential Information.

Violation of the Restricted Property documentation requirement is a Class B felony.

Damage or destruction of any of the following with the intent to damage property and having no right to do so or any reasonable ground to believe that he or she has such a right is a Class C felony, or a Class B felony if the damage or destruction causes any condition that could hinder or disrupt the normal operation of equipment, systems, or services provided for the health and safety of the public, metal owner's employees, first responders, law enforcement officers, or utility workers or cause an interruption in communications services or electric utility services. Additionally, the judge may order restitution not less than the value of the metal property damaged or stolen, including the cost of replacement and the cost to repair any and all damage cause during the commission of the crime:

- Telecommunications, cable communications, or electric power transmission pedestal or pole owned or operated by a telecommunications, cable, or electric power company or cooperative, or electric power supplier, or railroad.
- Telecommunications, cable communications, or electric power grounding or any other equipment or materials used in the delivery of electricity, wire, fiber insulator, power supply transformer, ground wire, or other apparatus, equipment, or fixture used in the transmission of telecommunications, cable communications, or electric power owned or operated by a telecommunications, cable, or electric power company or cooperative, or electric power supplier, or railroad.
- Equipment used in the transmission of wireless communications or related to wireless communications.
- Equipment used at any facility of over the air broadcast companies.
- Railroad materials and lading, including, but not limited to, any rail telecommunications; cable communications; power and signal equipment and wires; road/rail crossing signals, equipment, and wires; metal property lading being transported by a railroad; and any railroad track and other operating materials, including switch component, spike, angle bar, tie plate or bolt of the type used in constructing railroads.

- Electric power line, gas line, water line, wire or fiber insulators, electric motors or other apparatus, heating and cooling systems, and environmental control systems that are connected to farm shops, on-farm grain drying and storage complexes, animal production facilities, irrigation systems, greenhouse facilities, or other agricultural, forestry, or food-related activities, equipment, structures, systems, or vehicles.
- Any electric power line, gas line, water line, wire or fiber insulators, fencing, gates, security structures, electric motors or other apparatus, metering instruments, communications antenna, environmental control systems, and processing plants that are connected to oil, natural gas, coalbed methane, shale gas, or other petroleum producing properties, equipment, structures, systems, or vehicles.
- Any metal property from a school, place of worship, or a Recycler's premises.
- A copper, aluminum, or aluminum-copper condensing or evaporating coil, including its tubing or rods, from a heating or air conditioning unit, excluding scrap from window air conditioning units and automobile condenser coils, unless the seller:
 - Is a licensed contractor, HVAC contractor, plumber, or electrician and a current and valid license with number is provided and copied by the Recycler at the time of sale; or
 - Has verifiable documentation, such as a receipt or work order, indicating that the condenser coils are the result of a replacement of an air conditioner unit or condenser coils performed by a licensed contractor.
- Utility access covers, manhole covers, or storm drain covers, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.
- Grave markers, vases, memorials, statues, plaques, or other bronze objects used at a cemetery or other location where deceased persons are interred or memorialized or any other metal historic markers or monuments or the attached support or post to either, unless the seller is a company that deals in the manufacture or sale of the aforementioned products.

Compliance with the Recordkeeping, Restricted Property, Retention, Reporting, Registration, Payment Restrictions, No Purchase from Minors, and Hours of Operation provisions shall be recognized by law enforcement and the Alabama courts as evidence the possession of Metal Property is legal.

This law shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of the law is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

[back to top](#)

Preemption

This article "shall take precedence over any and all local ordinances governing purchase transactions of metal property by a secondary metals recycler."

[back to top](#)

References and Recent Amendments

[Alabama Code](#) Title §13A, Ch. 8, Article 1A Secondary Metal Recycling; §13A-8-30 to § 13A-8-39

ALASKA

Alaska Statutes Title 8, Chapter 60, Article 2 Scrap Metal Dealer Record Requirements AS 08.60.200 to AS 08.60.290

Alaska Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Please Note: This summary does not include Ch. 08.60, Article 1: Regulation of Junk Yards ([AS 08.60.050](#) to [AS 08.60.100](#)). Article 2 defines "junk" as including metals, automobiles, tools, implements, rags, used building materials, rubber, and paper; and "junk yard" as a location where junk is gathered together and stored for a commercial or public purpose.

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metal" means used, discarded, or previously owned brass, copper, bronze, aluminum, lead, stainless steel, catalytic converter material, or other metal; but does not include ferrous metal, beverage containers, gold, silver, or platinum.

"Scrap Metal Dealer" or "Dealer" means a person who purchases Scrap Metal for the purpose of resale or processing.

[back to top](#)

Exemptions

The law exempts:

- Scrap Metal purchase transactions under \$100;
- Transactions with a Seller if the Dealer maintains a file with the Seller's name, address, telephone number, and either a IRS taxpayer identification number or a valid government-issued photo identification card (number or copy).

[back to top](#)

Recordkeeping

A Dealer must maintain an accurate paper or electronic record of each in-person purchase of Scrap Metal for \$100 or more with the following information:

- The date, time, and location;
- The value of the Scrap Metal purchased;
- The Seller's name, address, and telephone number, as well as:
 - If the Seller is an individual, the Seller's driver's license number or a number from or copy of the Seller's government-issued photo identification;
 - If the Seller is an organization, the Seller's state business license number issued under [AS 43.70.020](#);

- A description, including license plate information, of the delivery vehicle;
- A description, including weight and quantity, of the Scrap Metal. The weigh scale must comply with the state standards of weights and measure under [AS 45.75](#);
- The Seller's signed and dated written or electronic statement that the Scrap Metal is not stolen property. The Dealer or their agent or employee must witness the signing.

[back to top](#)

Retention

Records must be maintained for 5 years after the date of the transaction.

[back to top](#)

Inspection

Records must be available for inspection by a law enforcement officer during the Dealer's regular business hours, or at reasonable times if the Dealer does not keep regular hours.

[back to top](#)

Penalties

A Dealer who knowingly fails to comply with or a person who knowingly makes a false entry for the Recordkeeping provision is guilty of a class A misdemeanor.

[back to top](#)

References and Recent Amendments

[Alaska Stat. Title 8, Chapter 60, Article 2](#) Scrap Metal Dealer Record Requirements; AS 08.60.200 to AS 08.60.290

[2014 Alaska CSHB 305](#) (effective January 1, 2015)

[back to top](#)

ARIZONA

ARS Title 44, Ch. 11, Art. 3.1 Scrap Metal Dealers
§ 44.1641 to § 44-1649
(as amended by 2018 Arizona HB 2307 and SB 1209)

Theft of Ferrous or Nonferrous: ARS Title 13, Ch. 18, § 13-1802 Theft; classification; definitions
(ISRI note: subsection A, paragraphs 7 to 9; subsections I and J; subsection K, paragraph 2)

ARS Title 13, Ch. 37, § 13-3728 Unlawful purchase or sale of used catalytic converter; classification
(ISRI note: subsection B, paragraph 2.)

Liability: ARS Title 12, Ch. 6, Art. 12, § 12-712
Affirmative defense; limitation; criminal act
(ISRI note: subsection C)

Arizona Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Theft Notification Website](#)
- [Registration](#)
- [Required Registration Documents](#)
- [Recordkeeping](#)
- [Seller's Receipt](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Hold](#)
- [No Purchase from Minors](#)
- [Prohibited Scrap Metal](#)
- [Vehicle Purchases](#) (new section)
- [Burned Metallic Wire](#)
- [Aluminum or Copper Wire](#)
- [Payment Restrictions](#)
- [Department Responsibilities](#)
- [2023 Legislative Committee on Metal Theft](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Please Note: Amendments by [2018 Arizona HB 2307](#) are included and noted in this summary. HB 2307 will not become effective unless on or before 10/01/20 the Dept. of Transportation implements an electronic system for a registered scrap metal dealer or a licensed automotive recycler to report all vehicle acquisitions electronically within 48 hours and verify at the time of a transaction that a motor vehicle offered for sale has not been reported stolen.

Additionally, [2018 Arizona SB 1209](#) repealed the requirement under § 44-1641.01 that the Department submit a report to the legislature every 2 years identifying registered Dealers.

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metals" includes (but is not limited to) insulated and uninsulated metallic cables.

"Ferrous Metals" means those metals that will attract a magnet *and includes a Scrap Vehicle* (italicized text added by HB 2307)

Prohibited Scrap Metal, as used in this summary, refers to the items listed in § 44-1642.01:

- Metal manhole covers;
- Brass or bronze valves or fittings that are commonly used on structures for access to water for the purpose of extinguishing fires;
- Brass or bronze commercial potable water backflow preventer valves;
- Water meters used for measurement of the use and consumption of domestic water;
- Aluminum trench shoring that is commonly used for shoring below ground trenches and excavations for the construction of buildings and structures.
- Aluminum loading ramps used for loading and hauling motor vehicles;

- Aluminum or stainless steel beer or malt beverage kegs;
- Catalytic converters;
- Metal municipal storm grates that are used to allow for water drainage from municipal streets or alleys.

(added by HB 2307) "Scrap Vehicle" means a vehicle that has been reported to NMVTIS and that has been flattened, crushed, baled, or logged so that the vehicle is less than 50% of its original volume, is no longer the vehicle that is described by the certificate of title, and is sold for purposes of scrap metal only.

"Scrap Metal Dealers" means each person or business entity engaged in the business of purchasing, trading, bartering, or otherwise receiving secondhand or castoff material of any kind that is commonly known as Scrap Metal. Excludes automotive recyclers that are licensed in [§ 28-4301](#) and whose primary business is the dismantling, selling, or disposing of parts or accessories of motor vehicles. *(HB 2307 removes reference to the definition of automotive recyclers)*

"Industrial Account" means an entity that files or is required to file monthly returns for its transaction privilege tax licenses or a governmental entity that sells to a Dealer.

"Department" means the Department of Public Safety.

[back to top](#)

Exemptions

Purchases from Industrial Accounts and other Dealers are exempt from the Reporting and Hold provisions. Other exemptions are specific to and listed with each provision.

The Recordkeeping, Seller's Receipt, Retention, Inspection, Payment Restrictions, and No Purchase from Minors provisions ([§ 44-1642](#) of the law) do not apply to transactions involving materials consisting of a metal product in its original manufactured form that is composed of no more than 20% by weight of nonferrous metal.

[back to top](#)

Theft Notification Website

Dealers and law enforcement must register on a free theft notification website that allows:

- Law enforcement to send detailed descriptions of stolen items to recycling operations and other law enforcement within at least a 100 mile radius of a theft;
- Dealers to alert law enforcement when the Dealers are offered suspicious metals.

[back to top](#)

Registration

A Dealer must register with the Department every 2 years by submitting the following information along with a fee determined by the Department to cover administration costs. A Dealer does not need to separately register branch offices or wholly-owned subsidiaries.

- The Dealer's name and address;
- The name of each person who owns at least 10% of the business;
- Full personal identification info on each owner of the business;

- A copy of each owner's driver's license;
- The location of each principal office and branch office;
- The name and address of any wholly-owned subsidiary.

[back to top](#)

Required Registration Documents

A Dealer must keep the following documents at each place of business:

- Proof of registration issued by the Department;
- A statement indicating compliance with the Theft Notification Website provision;
- An affidavit signed by the Dealer that the Dealer is in compliance with the law;
- A questionnaire the Dealer must prepare every 2 years to show compliance.

[back to top](#)

Recordkeeping

A Dealer must keep an English record, legibly printed or written in ink, of each Scrap Metal transaction with the following information:

- The date, time, and place of the transaction;
- A photograph of the Scrap Metal;
- An identifying description and weight of the Scrap Metal;
- The dollar amount of the transaction;
- The following identifying information, unless the Seller is exclusively selling aluminum beverage containers:
 - The Seller's name, physical description (including gender, height, weight, race, and eye and hair color), physical address, date of birth, and signature, a copy of the Seller's current driver's license, nonoperating ID license issued pursuant to [§ 28-3165](#), or photo ID issued by a tribal government or the United States military to validate the information; and
 - A copy of the identification used to verify the Seller's information.
- The Seller's transaction privilege tax number, if applicable;
- The license number and state of issuance of the delivery vehicle;
- A photograph, video record or digital record of the Seller;
- The right index fingerprint of the Seller.

[back to top](#)

Seller's Receipt

A Dealer must provide a receipt to the Seller on site at the time of the transaction, for every transaction, with the following information:

- The date, time, and place of the transaction;
- An identifying description and weight of the Scrap Metal;
- The dollar amount of the transaction.

[back to top](#)

Retention

Records must be retained for 2 years: at the business premises for 1 year after making the final entry of any transaction; and at the business premises or any other reasonably available location for an additional year.

[back to top](#)

Inspection

A Dealer's business premises, business records relating to Scrap Metal transactions, and business inventory must be open during regular business hours for reasonable inspection by a peace officer. Inspecting peace officers must first identify themselves and the purpose for the inspection to the Dealer, Dealer's manager, or other responsible person and comply with all of the Dealer's reasonable and customary safety requirements for the premises. The Dealer may require the officer to sign an inspection log with the officer's name, serial or badge number, time, date, and purpose of the inspection.

A Dealer's required registration documents (proof of registration, statement showing registration on a Theft Notification Website, affidavit of compliance, and biennial compliance questionnaire) for each place of business must be available for inspection by law enforcement. If a Dealer does not have the documents law enforcement must submit a notice of violation to the Dealer, and may not reinspect the premises for such until 15 days after the notice was received.

[back to top](#)

Reporting

A Dealer must submit an electronic report to the Department within 24 hours of receiving Scrap Metal, except from an Industrial Account or another Dealer, with the following:

- The date, time, and place of the transaction;
- An identifying description and weight of the Scrap Metal;
- The dollar amount of the transaction;
- The Seller's name, physical description (including gender, height, weight, race, and eye and hair color), physical address, date of birth, and signature;
- A copy of the identification used to verify the Seller's information.
- The license number and state of issuance of the delivery vehicle.

The Department shall design and make available a seller and transaction form that may be used for reporting. A Dealer that submits information to the Department shall not be required to submit the same information to a local law enforcement agency.

[back to top](#)

Hold

7 day hold after a report is filed for any reportable transaction involving:

- Copper;
- Aluminum wire with a diameter of at least 3/8ths of an inch; or
- Any transaction with a value over \$100.

Exempts transactions with Industrial Accounts or another Dealer, or purchases of:

- Used aluminum beverage containers;
- Ferrous Metals; or
- Scrap Metal authorized for release by a peace officer of that jurisdiction.

[back to top](#)

No Purchase from Minors

A Scrap Metal Seller must be at least 16 years old.

[back to top](#)

Prohibited Scrap Metal

A Dealer may only knowingly purchase Prohibited Scrap Metal:

- From an Industrial Account;
- From another Dealer; or
- After the metal is authorized for release by a peace officer of that jurisdiction.

[back to top](#)

Vehicle Purchases (created by HB 2307)

Notwithstanding any other law, only [Title 28](#) governs the purchase by a scrap metal dealer of a vehicle as defined in [§ 28-101](#) solely for the purpose of processing the vehicle into a scrap vehicle or into prepared grades of scrap metal (note that a "vehicle" does not include a "scrap vehicle" as defined in the metals theft statute).

[back to top](#)

Burned Metallic Wire

A Dealer may only purchase or receive metallic wire that was burned in whole or in part to remove insulation from:

- An Industrial Account;
- Another Dealer; or
- A Seller who provides the Dealer written evidence identifying the person who delivers the wire that includes evidence the wire was lawfully burned.

[back to top](#)

Aluminum or Copper Wire

A Dealer shall not accept aluminum wire with a diameter of at least 3/8ths of an inch or any copper wire that has had the insulation removed and shall not remove insulation from the wire until after the 7 day hold period unless the Seller is an Industrial Account or another Dealer.

[back to top](#)

Payment Restrictions

No cash payments for purchases involving the following:

- Any Transactions involving air conditioning cooling coils; or
- Any of the following, unless the Seller is annually preregistered as an authorized Seller on behalf of an Industrial Account:
 - Industrial accounts
 - Copper and aluminum wire with a diameter of at least 3/8ths of an inch,
 - Any scrap Metal transactions of \$300 or more.

Payment for such must be by mailing a check or money order to the address provided in the transaction record, payable to the business name for an industrial account. For transactions involving air conditioning cooling coils with an Industrial Account, a Dealer may also pay the seller on site with a check made payable to the Industrial Account. A Seller may not participate in more than one cash transaction per day for Scrap Metal, or conduct a series of transactions for one vehicle load of Scrap Metal to avoid requirements.

[back to top](#)

Department Responsibilities

The Department shall establish electronic reporting submission standards by rule, allowing submission in a format that is compatible with the output format of at least 4 record keeping

software programs currently in use in the scrap metal industry in Arizona and that can be electronically merged with the Department's database. The Department shall make reported information available to local law enforcement over the internet and provide for training and procedures to allow law enforcement to access the information.

The Department must post the name and address of each scrap metal dealer and the location of each principal office and branch location as submitted in the scrap metal dealer's registration on the Department's website.

[back to top](#)

2023 Joint Legislative Committee on Metal Theft

The President of the Arizona Senate and the Speaker of the Arizona House for the first regular session in 2023 may appoint a joint legislative committee on metal theft to review the effectiveness of this law in deterring crime and the cost of compliance to industries affected. The Committee may report on its findings by December 1, 2023.

[back to top](#)

Penalties

A Dealer who fails to maintain the required registration documents for each place of business is subject to any or all of the following that apply:

- A penalty of any costs associated with enforcement;
- The immediate suspension of all Scrap Metal transactions unless the business was previously registered as a Scrap Metal Recycler or has a local business license;
- 1st violation: a civil penalty of \$500, except the Dealer is not subject to the penalty if the Dealer corrects the violation within 15 days of receiving notice; or
- 2nd or subsequent violation: a civil penalty of \$1,000 and a suspension or revocation of the business license, or the suspension or permanent cessation of business operations if a business license is not required.

A Seller may not conduct a series of transactions for one vehicle load of Scrap Metal to avoid the requirements of the Recordkeeping or Payment Restrictions provisions.

A Dealer who fails to comply with the law is guilty of a class 1 misdemeanor.

Under [§ 13-1802](#), a person commits theft if, without lawful authority, the person knowingly commits one of the following involving ferrous or nonferrous metal:

- Controls the metal of another with the intent to deprive the other person of it;
- Controls the metal of another knowing or having reason to know it was stolen; or
- Purchases metal within the ordinary course of business knowing it was stolen.

Under [§ 13-1802](#), the value of any ferrous or nonferrous metal for sentencing includes the amount of any damage to property caused as a result of the theft. In an action for the theft of ferrous or nonferrous metal, unless satisfactorily explained or acquired in the ordinary course of business by an automotive recycler as defined in [§ 28-4301](#) or a Dealer, the following inferences may rise:

- Proof of possession of Scrap Metal that was recently stolen may give rise to an inference that the person in possession was aware of the risk it was stolen or participated in the theft;
- Proof of sale of stolen Scrap Metal at a price substantially below its fair market value may give rise to an inference that the person selling was aware of the risk that it was stolen.

Under [§ 12-712](#), a defendant may be found not liable in a civil action if the claimant (or the deceased person in an action taken by their heir or estate) was attempting to commit, was committing, or was immediately fleeing from an act in violation of the metal theft provisions of [§ 13-1802](#) (subsection A, paragraphs 7 and 8), and was as a result in any way responsible for the accident or event that caused their harm.

Under [§ 13-3728](#), the purchase or sale of a used catalytic converter is a class 1 misdemeanor unless the purchase or sale:

- Is in the ordinary course of business by a commercial motor vehicle parts or repair business in connection with the sale or installation of a new catalytic converter;
- Is by an automotive recycler that is licensed in [Title 28](#), Chapter 10 (*HB 2307 removes reference to definition*); or
- Is conducted as prescribed by [§ 44-1642.01](#) (the [Prohibited Scrap Metal](#) provision).

[back to top](#)

Preemption

Counties, cities, and towns may not enact or enforce ordinances, rules, or regulations that conflict, but may enact such that regulate Scrap Metal Dealers and are not in conflict.

The power to register Scrap Metal Dealers is preempted by the state. [§ 9-500.38](#) and [§ 11-269.16](#) (auxiliary container statutes) and this law do not affect a city's, town's, or county's power to enforce business licensing laws, or a city's, town's, or county's system for licensing a Scrap Metal Dealer if the licensing system includes background checks or identification and fingerprinting of the owners of the Scrap Metal Dealer. A Scrap Metal Dealer's license that is current and in good standing with a city's, town's or county's licensing system before September 13, 2013 is in compliance with that licensing system and the city, town or county may not require the Scrap Metal Dealer to reapply for licensure in order to be in compliance with the city's, town's or county's licensure system unless there is an event or circumstance that requires an amendment or filing pursuant to the city's, town's or county's licensing system's requirements.

[back to top](#)

References and Recent Amendments

Statutes

- Scrap Metal Dealers: [A.R.S. Title 44](#), Ch. 11, Art. 3.1 Scrap Metal Dealers; § 44.1641 to § 44-1649
- Theft of Ferrous or Nonferrous: [A.R.S. Title 13, Ch. 18, § 13-1802](#) Theft; classification; definitions (ISRI note: subsection A, paragraphs 7 to 9; subsections I and J; subsection K, paragraph 2)



Voice of the Recycling Industry™

ISRI is the voice of the recycling industry, promoting safe, economically sustainable and environmentally responsible recycling through networking, advocacy and education.

- Catalytic Converters: [A.R.S. Title 13, Ch. 37, § 13-3728](#) Unlawful purchase or sale of used catalytic converter; classification (ISRI note: subsection B, paragraph 2)
- Liability: [A.R.S. Title 12, Ch. 6, Art. 12, § 12-712](#) Affirmative defense; limitation; criminal act (ISRI note: subsection C)

Recent Amendments

- [2013 Arizona HB 2262](#) (effective 90 days after close of session)
- [2013 Arizona SB 1107](#) (effective 90 days after close of session)
- [2014 Arizona HB 2268](#) (effective July 24, 2014)
- [2014 Arizona HB 2269](#) (effective July 24, 2014)
- [2014 Arizona SB 1460](#) (effective July 24, 2014)
- [2015 Arizona HB 2288](#) (effective July 3, 2015)
- [2017 Arizona HB 2044](#) (effective August 3, 2017)
- [2018 Arizona SB 1209](#) (effective August 2, 2018)
- [2018 Arizona HB 2307](#) (HB 2307 will not become effective unless on or before 10/01/20 the Dept. of Transportation implements an electronic system for a registered scrap metal dealer or a licensed automotive recycler to report all vehicle acquisitions electronically within 48 hours and verify at the time of a transaction that a motor vehicle offered for sale has not been reported stolen.)

[back to top](#)

ARKANSAS

A.C.A. Title 17, Subtitle 2, Chapter 44. Scrap Metal Dealers;
§ 17-44-101 to § 17-44-106
(as amended by 2019 Arkansas SB 365)

A.C.A Title 5, Subtitle 4, Chapter 26; § 5-36-123
Theft of Scrap Metal

A.C.A. Title 5, Subtitle 4, Chapter 26; § 5-36-124
Theft by Receiving of Scrap Metal

Arkansas Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
 - [Reasonable, Written Documentation of Ownership](#)
 - [Transaction Records](#)
- [No Purchase from Minors](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Theft Notification](#)
- [License](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Please Note: Amendments by [2019 Arkansas SB 365](#), effective July 23, 2019, are included and noted in this summary.

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metal" means bits and pieces of metal parts that may be combined together with bolts or soldering and can be recycled when worn or superfluous.

"Nonferrous Metal" means a metal that does not contain significant quantities of iron or steel, including without limitation the following metals and their alloys: copper; brass; aluminum; bronze; lead; zinc; and nickel.

"Scrap Metal Recycler" means any person that purchases Scrap Metal, but does not include a person that only buys in quantities of 5,000 lbs. or more.

"Scrap Metal Processor" means a person that, from a fixed location, engages in the business of using machinery or equipment for the processing or manufacturing of iron, steel, or Nonferrous Metal scrap;

"Seller" means any person that receives in a transaction monetary consideration from a Recycler in exchange for Nonferrous Metal, iron, or steel, but does not include a person that sells Scrap Metal generated in a manufacturing or production process and sold to a Recycler under a contract or an agreement.

As used in Theft of Scrap Metal (§ 5-36-123) and Theft by Receiving of Scrap Metal (§ 5-36-124):

- "Scrap Metal" means copper, copper alloy, copper utility wire, any bronze, or any aluminum as described in § 17-44-101 et seq.;
- "Building Material" means Scrap Metal used in the construction or rebuilding of a building or structure.

- "Public Safety Device" includes, but is not limited to, a traffic-signaling device or a railroad-crossing device.
- "Utility" means any person or entity providing to the public gas, electricity, water, sewer, telephone, telegraph, radio, radio common carrier, railway, railroad, cable and broadcast television, video, or Internet services;
- "Utility Property" means any component that is reasonably necessary to provide utility services, including without limitation any wire, pole, facility, machinery, tool, equipment, cable, insulator, switch, signal, duct, fiber optic cable, conduit, plant, work, system, substation, transmission or distribution structure, line, street lighting fixture, generating plant, equipment, pipe, main, transformer, underground line, gas compressor, meter, or any other building or structure or part of a building or structure that a utility uses in the production or use of its services;
- "Permitted Construction Site" means the site of construction, alteration, painting, or repair of a building or a structure for which a building permit has been issued by a city of the first class, a city of the second class, an incorporated town, or a county;
- "Public Safety Agency" means an agency of the State of Arkansas or a functional division of a political subdivision that provides firefighting and rescue; response to natural or human-caused disaster or a major emergency; law enforcement; or ambulance or emergency medical services.

[back to top](#)

Exemptions

The Recordkeeping and Reporting provisions exempt transactions:

- Between metal processors if the purchaser or transferee obtained a bill of sale;
- Involving only beverage or food containers; or
- Involving only ferrous metals.

The Theft Notification provision exempts transactions involving only beverage containers.

[back to top](#)

Recordkeeping

A Recycler's must keep two types of records: the "Reasonable, Written Documentation of Ownership" by the Seller; and Transaction Records. Records must be in paper, electronic, or another method of storing information.

[back to top](#)

Reasonable, Written Documentation of Ownership

A Seller shall not sell and a Recycler shall not purchase Scrap Metal unless the Seller provides "reasonable, written documentation" that the Seller is the owner or is authorized to sell on the owner's behalf. The documentation must include the following information:

- The name of the entity or individual from whom the Seller acquired the metal;
- The date the Seller acquired the Scrap Metal;
- The physical address from where the Seller acquired the metal;
- Affirmations or certifications that the Seller:

- Is the owner of the Scrap Metal or is the employer, agent, licensed contractor, licensed HVACR, plumber, electrician, or other person authorized to sell on behalf of the owner; and
- Has not pleaded guilty or nolo contendere to or been found guilty of theft, burglary, or vandalism involving Scrap Metal.

[back to top](#)

Transaction Records

Recyclers must record the following for each Scrap Metal transaction, except that individual records are not required for a series of transactions made under a contract. Information for repeat Sellers may be saved and referred to for future transactions.

- The name, address, gender, birth date, and identifying number from the seller's government-issued photo identification;
- A photocopy of the Seller's government-issued photo identification;
- The date of the Scrap Metal purchase transaction;
- The digital thumbprints of the seller;
- A general description of the predominant types of scrap metal purchased made in accordance with the custom of the trade, the configuration of the scrap metal, whether the material is insulated, and the weight, quantity, or volume;
- The consideration paid;
- The license plate number of the vehicle used in transporting the materials;
- A date and time-stamped digital photograph of the Seller and of the Scrap Metal recorded with the name of the person taking the photographs.

[back to top](#)

No Purchase from Minors

A Recycler may not purchase Scrap Metal claimed by a minor unless accompanied by a parent or guardian. The Recycler must record a written statement that the transaction is taking place with the parent or guardian's full knowledge and consent.

[back to top](#)

Retention

Records must be retained for 1 year. A written statement of consent by a parent or guardian to a purchase from a minor must be retained for 3 years.

[back to top](#)

Inspection

Records and statements of parental consent must be made available to any State, municipal, or county law enforcement officer and for use in any legal proceeding.

[back to top](#)

Reporting

A Recycler must file a daily electronic report of Scrap Metal purchases, consisting of the "reasonable, written documentation" and transaction record. The information must be entered into an automated database which may be accessed by law enforcement. Municipalities may require electronic records and reporting by ordinance.

The database operator shall send a report every 7 days to the county sheriffs, and to any law enforcement agency that requests periodic copies more frequently than 7 days. *(SB 365 removes requirement that the operator report list recyclers that have not filed a daily report)*

[back to top](#)

Theft Notification

Any person may notify a Recycler of a known or presumed theft of Nonferrous Metal, with the notice setting forth any available information including the following:

- The approximate quantity and size of the Nonferrous Metal stolen;
- The geographic area from which the metal was reported missing or stolen; and
- Any distinguishing marks or other method of identification.

If metal meeting the description is purchased by or offered for sale to the Recycler within 90 days of a notice, then the Recycler must notify law enforcement of the purchase or offer.

[back to top](#)

License

A Recycler must be licensed by the county sheriff. Licenses are valid for 1 year, with an initial fee of \$250 and a renewal fee of \$25 (fees do not apply to not-for-profit dealers or recyclers), usable for the sheriff's general operating expenses. An applicant must:

- Have a fixed location with a full complement of permanent utilities, if applicable, including without limitation water; sewer; electricity; and gas;
- Show proof of a required national pollution discharge elimination system stormwater permit issued by Arkansas Department of Environmental Quality; and
- Have the ability to comply with the Reporting provision.

[back to top](#)

Penalties

A person convicted of Theft of Scrap Metal is forever prohibited from selling Scrap Metal.

Violations of the law are subject to civil penalties of up to \$1000 per violation, except that:

- Knowingly giving false information for the records is a Class A misdemeanor;
- A second offense of the Reporting provision is a Class A misdemeanor;
- A 3rd or subsequent offense of the Reporting provision is a Class D felony.

A Recycler's license may be suspended or revoked by a court with jurisdiction for failure to comply with the License provision.

A person commits Theft of Scrap Metal (§ 5-36-123) if the person commits, aids, or is an accomplice to a theft of property involving Scrap Metal. Theft of Scrap Metal is a:

- Class B felony if:
 - The value of the property is \$25,000 or more;
 - The property is obtained by the threat of serious physical injury to any person or destruction of the occupiable structure of another person;
 - The property is obtained by threat and the actor stands in a confidential or fiduciary relationship to the person threatened; or

- The property is Utility Property and the value is \$500 or more;
- Class C felony if:
 - The value of the property is less than \$25,000 but more than \$5,000;
 - The property is obtained by threat;
 - The property is Building Material obtained from a Permitted Construction Site and the value is \$500 or more; or
 - The value is \$500 or more and the theft occurred in an area declared under a state of emergency by the President, the Governor, or the executive officer of a city or county;
- Class D felony if:
 - The value of the property is \$5,000 or less but more than \$1,000;
 - The value of the property is at least \$100 but less than \$500 and the theft occurred in an area declared under a state of emergency by the President, the Governor, or the executive officer of a city or county; or
 - The property is an apparatus connected to a farm shop, on-farm grain drying and storage complex, heating and cooling system, environmental control system, animal production facility, irrigation system, or dwelling;
- Class A misdemeanor if:
 - The value of the property is \$1,000 or less; or
 - The property has inherent, subjective, or idiosyncratic value to its owner or possessor even if the property has no market value or replacement cost.
- The penalty is enhanced so that there is a mandatory fine of \$5,000 to \$50,000 and the offense is a Class D felony if it otherwise would have been a Class A misdemeanor if, upon proclamation of a state of emergency and for a period of 30 days following, the property is:
 - A generator intended for use by a public facility, a nursing home or hospital, a Public Safety Device, a communication tower or facility, a public utility, a water system or sewer system, a Public Safety Agency, or any other facility or entity providing a vital service; or
 - Any other equipment used in the transmission of electric power or telephone service.
- Upon conviction, the classification and penalty range is increased one step if:
 - The total amount of money damages suffered by the owner of the Scrap Metal as a direct result of the theft, including lost income, lost profits, and costs of repair or replacement of property damage, was greater than \$250; or
 - The person transported the Scrap Metal across state lines to sell or dispose of it.

A person commits Theft by Receiving of Scrap Metal (§ 5-36-124) if the person receives, retains, purchases, or disposes of Scrap Metal if the person knows or should have known the Scrap Metal was stolen, punishable as a:

- Class A misdemeanor; or
- A Class D felony if:
 - The value is more than \$1,000, or
 - It is a second or subsequent offense;

The following crimes are subject to an additional 5 years imprisonment if the stolen or damaged property involves Nonferrous Metals:

- Theft by Receiving (§ 5-36-106)
- A felony offense of Theft by Receiving of Scrap Metal (§ 5-36-124)
- Criminal Mischief in the 1st Degree (§ 5-38-203)
- A felony offense of Criminal Mischief in the 2nd Degree (§ 5-38-204)

[back to top](#)

References and Recent Amendments

Statutes

- [A.C.A.](#) Title 17, Subtitle 2, Chapter 44. Scrap Metal Dealers; §17-44-101 to §17-44-108
- [A.C.A.](#) Title 5, Sub. 4, Ch. 36, Subch. 1, § 5-36-123. Theft of scrap metal.
- [A.C.A.](#) Title 5, Sub. 4, Ch. 36, Subch. 1; § 5-36-124. Theft by receiving of scrap metal.

Recent Amendments

- [2013 Arkansas HB 1975](#) (effective 90 days after close of session)
- [2013 Arkansas SB 178](#) (effective 90 days after close of session)
- [2015 Arkansas SB 459](#) (effective July 21, 2015)
- [2019 Arkansas SB 365](#) (effective July 23, 2019)

[back to top](#)

CALIFORNIA

Junk Dealers and Recyclers

Cal. Bus. & Prof. Code, Div. 8, Ch. 9, Art. 3. Junk
§ 21600 to § 21610
(as amended by 2019 California SB 143)

Weighmaster Licensing as applies to Recyclers:
Cal. Bus. & Prof. Code, Div. 5, Ch. 7. Weighmasters
§ 12703.1 and § 12704

Law Enforcement Reports of Metal Theft
Cal. Penal Code, Part 4, Title 1, Ch. 2, Art. 6, § 11199.5
Reports of Metal Theft

California Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
 - [Additional Recordkeeping and Payment Restrictions - Nonferrous Materials](#)
 - [Additional Recordkeeping and Payment Restrictions - CRV Containers](#)
 - [Additional Recordkeeping - Beer Kegs](#)
- [Purchase Restrictions - Prohibited Material](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- Catalytic Converters
 - [Recordkeeping](#)
 - [Additional Recordkeeping and Payment Restrictions](#)
 - [Retention](#)
 - [Inspection](#)
- [Hold](#)
- [Theft Alert Notifications](#)
- [Weighmaster Licensing](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Please Note: Amendments by [2019 California SB 143](#) to add general use prepaid cards to the forms of payment for nonferrous, effective 09/05/19, are included and noted in this summary.

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Junk" means any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any and all secondhand and used furniture, pallets, or other personal property, other than livestock, or parts or portions thereof.

"Scrap metals and alloys" includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler. Scrap Metal does not include scrap iron, household generated waste, or aluminum beverage containers.

"Nonferrous Material" means copper, copper alloys, stainless steel, or aluminum, but does not include CRV beverage containers;

"Prohibited Material" includes:

- Any reasonably recognizable, disassembled, or inoperative fire hydrant or fire department connection, including reasonably recognizable brass fittings and parts;
- Any manhole cover or lid or reasonably recognizable part of such; or
- Any backflow device or connection to that device or reasonably recognizable part of that device, that was owned or previously owned by an agency.

"Recycler" means any processor, recycling center, or noncertified recycler who buys or sells Scrap Metal that constitutes Junk.

"Junk Dealer" includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.

"Core Recycler" means a person or business, including a Recycler or Junk Dealer, that buys used individual catalytic converters, transmissions, or other parts previously removed from a vehicle. A person or business that buys a vehicle that may contain these parts is not a Core Recycler.

(added by SB 143) "Designated Surcharge-Free Cash Access Network" means a location designated, in a contract between a junk dealer or recycler and a card issuer, as a location where a general use prepaid card holder can withdraw cash without paying a surcharge.

(added by SB 143) "General Use Prepaid Card" has the same meaning as "prepaid account" in [12 CFR § 1005.2](#) as it read on April 1, 2019, except that it does not include a card for which any of the following fees are charged by the card issuer to the card user:

- A fee or surcharge to make a purchase with the card.
- A fee or surcharge to make a balance inquiry.
- A fee or surcharge to withdraw funds at a designated surcharge-free cash access network location.
- A fee or surcharge to lodge a dispute regarding the balance of funds on the card.
- A fee or surcharge for account inactivity.

[back to top](#)

Exemptions

Exempts:

- Secondhand furniture merchants;
- Pawnbrokers;
- Secondhand car dealers or merchants in connection with automobile and motor vehicle sales agencies but not conducted in conjunction with a junk yard;
- Persons selling new automobile tires or batteries or other equipment taking in part payment used articles of the same and thereafter selling or disposing of them;
- Secondhand oil well supply and equipment dealers not conducting or carrying on their business in connection with a junk yard;
- Secondhand clothing merchants and ragpickers.

Except as otherwise provided, the law does not apply to:

- Any person who buys or sells Junk acquired in the conduct of any business other than that of a Dealer or Recycler.
- Purchases of scrap metal by a Dealer or Recycler when the payment is by check issued to the company represented as being the owner of the scrap, except as provided in Purchase Restrictions - Prohibited Materials (§ 21609.1 of the law);

- Scrap metal purchased or received from another Dealer or Recycler who has recorded, reported, and held the material as required. The purchase or receipt is also exempt from further holding or reporting provided that the selling party gives the buyer written assurance of this fact. The seller shall be held responsible for any failure to report or hold.

The Payment Restrictions on Nonferrous Materials and CRV Containers do not apply if, during any 3 month period, the Dealer or Recycler completes 5 or more separate transactions per month, on 5 or more separate days per month, with the Seller. To continue to be exempt the Seller *shall* continue to complete 5 or more separate transactions per month with the Dealer or Recycler. (*SB 143 changes from "must continue" to "shall"*)

The Payment and Additional Recordkeeping provisions for purchases of Nonferrous Materials do not apply to:

- Nonferrous Material that is not valued at more than \$20 in a single transaction if the majority of the transaction is for beverage containers as defined in the Public Resources Code Division 12.1;
- Coin dealers; or
- Automobile dismantlers as defined in Vehicle Code § 220.

The Payment and Additional Recordkeeping provisions for purchases of CRV Containers do not apply to CRV containers having a value of \$100 or less in a single transaction or to jurisdictions that do not offer curbside pickup of materials that include CRV Containers.

The provisions relating to catalytic converters apply to Core Recyclers and do not apply to a subsequent purchaser of a catalytic converter who is not a Core Recycler. Other than as provided in the Recordkeeping - Catalytic Converters provision, the catalytic converter provisions do not apply to a Core Recycler who holds a written agreement with a business or Recycler regarding the transactions. The Payment Restrictions - Catalytic Converters provision exempts transactions where the Core Recycler and the Seller have a written agreement for the transaction.

The Weighmaster Licensing provision exempts licensed pawnbrokers and secondhand dealers when the pawnbroker or secondhand dealer weighs property that it acquires and reports the acquisition according to its respective statute.

[back to top](#)

Recordkeeping

Junk Dealers and Recyclers are required to keep a written record of all sales and purchases made with the following information; the Office of the Attorney General provides a Record of Junk Sale or Purchase form PDF for download at <http://oag.ca.gov/recycle>

- The place and date of each sale or purchase;
- For purchases, information from one of the following methods of identification:
 - The Seller's name and a valid driver's license number and state of issue;
 - The Seller's name and a California or U.S.-issued identification card number;
 - The Seller's name, ID number, and country of issue from a passport and the address from another item of identification that bears the Seller's name; or

- The Seller's name and ID number from a Matricula Consular and the address from another item of identification that bears the Seller's name.
- For sales, the name and address of each person to whom metal is sold.
- The vehicle license number including the state of issue of any motor vehicle used in transporting metal to or from the Junk Dealer's or Recycler's business.
- A description of the items purchased or sold, including the item type and quantity, and identification number, if visible.
- For purchases, a statement indicating either:
 - That the Seller is the owner of the metal; or
 - The name of the person the metal was obtained from, as shown on a signed transfer document.

[back to top](#)

Additional Recordkeeping and Payment Restrictions - Nonferrous Materials

For non-exempt purchases of Nonferrous Materials, a Dealer or Recycler must also record the following before providing payment:

- A clear photograph or video of the Seller;
- A copy of the method(s) of identification provided above
 - If the Seller prefers payment by check *or general use prepaid card* delivered to an address different from that on the ID other than a P.O. Box, the Dealer or Recycler must also record a copy of a gas or electric utility bill addressed to the Seller at that address with a payment due date no more than 2 months prior to the date of sale. *(prepaid card added by SB 143)*
- A clear photo or video of the nonferrous metal being purchased;
- A thumbprint in hardcopy or electronic format.

(prepaid cards added by SB 143) Unless exempt, payment for a purchase of Nonferrous Materials must be made by either:

- Cash, *general use prepaid card*, or check collected by the Seller from the Dealer or Recycler on or after the 3rd business day following the purchase;
- *If the buyer offers, and the Seller agrees, to have payment made by prepaid card, the card may be provided to the Seller at the time of sale, but funds shall not be available until the 3rd business day after the date of sale;*
 - *The Dealer or Recycler shall pay any one-time initial issuance fee;*
 - *The prepaid card used shall allow for reasonably convenient access to a surcharge-free cash access network location, and the Dealer or Recycler shall inform the Seller of the location of such;*
 - *Nothing in this section shall prevent or regulate the fees or surcharges charged by a bank or credit union that is not party to the contract that requires payment to be made by a general use prepaid card; or*
- Check mailed to the Seller at the address on the ID given for the purchase record.
- If the Seller prefers payment by check *or general use prepaid card with payment* mailed to an address different from that on the identification other than a P.O. Box, the Dealer or

Recycler must also record a copy of a gas or electric utility bill addressed to the Seller at that address with a payment due date no more than 2 months prior to the date of sale.

These additional requirements do not apply if the Dealer or Recycler has on file or receives on the date of sale the following:

- The name, physical business address, and business telephone number of the Seller's business;
- The business license number or tax identification number of the Seller's business;
- A copy of the valid driver's license of the person delivering the Nonferrous Material on behalf of the Seller to the Dealer or Recycler.

[back to top](#)

[Additional Recordkeeping and Payment Restrictions - CRV Containers](#)

For California Redemption Value (CRV) containers, a Dealer or Recycler must also record the valid address from and make a copy of one of the following before providing payment:

- The Seller's valid driver's license;
- A state or federal government-issued photo ID card; or
- Other valid identification containing the Seller's address, such as utility bills in the Seller's name.

Unless exempt, payment for a purchase of CRV containers must be made by either:

- Check or electronic transfer from the Dealer or Recycler to the Seller; or
- A Recycler, if authorized by Public Resources Code Division 12.1, may provide payment through a voucher that is immediately redeemable for cash.

These additional requirements do not apply if the Dealer or Recycler has on file or receives on the date of sale the following:

- The name, physical business address, and business telephone number of the Seller's business;
- The business license number or tax identification number of the Seller's business;
- A copy of the valid driver's license or a state or federal government-issued ID card with a photograph and address of the person delivering the CRV Containers on behalf of the Seller to the Dealer or Recycler.

[back to top](#)

[Additional Recordkeeping - Beer Kegs](#)

Dealers or Recyclers may only purchase or receive refillable stainless steel or aluminum alloy beer kegs marked with an indicia of ownership from the indicated owner unless the Seller or Transferor provides one of the following, which the Dealer or Recycler must copy and add to the transaction record:

- A receipt from the indicated owner verifying the Seller's current ownership; or
- A document indicating the Seller is authorized by the owner to sell the kegs.

[back to top](#)

Purchase Restrictions - Prohibited Material

For purchases of Prohibited Materials, Dealers or Recyclers must obtain written certification on the letterhead of the agency that owned or previously owned the material. The certification must:

- Describe the material;
- Certify that the agency has sold the material or is offering it for sale, salvage, or recycling; and
- Authorize and identify the person possessing the certification to negotiate the sale.

[back to top](#)

Retention

Written records must be retained for at least 2 years "after making the final entry of any purchase or sale". For the Additional Recordkeeping - CRV Containers provision, the Dealer or Recycler must retain either the photograph and address from the specified identification or a copy of the identification.

[back to top](#)

Inspection

Other than for materials with special inspection rules outlined below, Dealers and Recyclers shall allow periodic inspection during normal business hours of any junk or scrap metal property and any sale or purchase records by:

- An officer holding a warrant authorizing a search for personal property;
- A person appointed by a county sheriff or city head of police; or
- An officer holding a court order directing the examination of records or property.

Inspection or seizure of a thumbprint shall only be performed by a peace officer acting within the authority of a criminal search warrant signed by a magistrate and served on the junk dealer or recycler by the peace officer. Probable cause for the issuance of that warrant *shall* be based upon a theft specifically involving the transaction for which the thumbprint was given. (*SB 143 changes from "must be based upon a theft" to "shall"*)

[back to top](#)

Reporting

Reports shall be transmitted electronically beginning 12 months after the Department of Justice and local law enforcement agencies develop a standard format to be used statewide to transmit the report. Until that time, each secondhand dealer may either continue to report using existing forms and procedures or may begin electronically reporting.

Every Recycler shall report the information required in the Recordkeeping provision to the chief of police or sheriff as provided in [Bus. & Prof. Code § 21628](#). This shall occur daily, or on the first working day after purchase of the property, on forms or through an electronic reporting system approved or provided by the Department of Justice. The Office of the Attorney General provides a Record of Junk Sale or Purchase form PDF for download at <http://oag.ca.gov/recycle>

A Dealer or Recycler who unknowingly takes possession of Prohibited Material in a load of nonprohibited materials without the required certification must notify the appropriate law enforcement agency by the end of the next business day after discovering the prohibited material.

The report must be by electronic mail, fax, or a letter delivered in person or by certified mail to provide the written confirmation necessary to prevent a Dealer or Recycler being charged with a civil or criminal penalty for possession of the material.

[back to top](#)

Recordkeeping - Catalytic Converters

A Core Recycler who accepts a catalytic converter for recycling must maintain a written record with the following:

- The Place and Date of each sale or purchase of a catalytic converter made in the conduct of business as a Core Recycler;
- The Seller's name;
- The Seller's valid driver's license number and state of issue, or California issued identification number;
- The state of issue of a motor vehicle used in transporting the catalytic converter;
- If the Seller is a business, the name, address, and telephone number of the business;
- A description of the catalytic converters purchased or sold, including item type and quantity, and identification number, if any, and the vehicle identification number;
- Amount paid for the catalytic converter;
- Either:
 - A statement that the Seller is the owner, or
 - The name of the person from whom the Seller obtained the catalytic converter, including the business, if applicable, as shown on a signed transfer document.

A Core Recycler accepting a catalytic converter from a licensed auto dismantler or from a Recycler who holds a written agreement with a business that sells catalytic converters for recycling purposes is required to collect only the following for a transaction:

- The name of the Seller or agent acting on the Seller's behalf;
- The Date of the transaction;
- The number of catalytic converters received;
- The amount paid for the catalytic converters;

A Core Recycler selling or shipping used catalytic converters to other Recyclers or smelters shall retain the following information from the sale:

- The name and address of each person to whom the catalytic converter is sold or disposed to;
- The quantity of catalytic converters being sold or shipped;
- The amount paid for the catalytic converters sold;
- The Date of the transaction.

[back to top](#)

Additional Recordkeeping and Payment Restrictions- Catalytic Converters

Before providing payment for a catalytic converter, a Core Recycler must also obtain:

- A clear photo or video of the Seller at the time of sale;

- A copy of the Seller or Seller's agent's valid driver's license or government-issued identification card containing the Seller's photograph and address.
 - If the Seller prefers payment by check delivered to an address different from that on the ID other than a P.O. Box, the Core Recycler must also record a copy of a gas or electric utility bill addressed to the Seller at that address with a payment due date no more than 2 months prior to the date of sale.
- A clear photo or video of the catalytic converter being sold;
- A written statement indicating how the Seller obtained the catalytic converter.

Payment for catalytic converters must be by check by one of the following:

- For an individual, by check:
 - mailed to the Seller at the address provided in the transaction record, or
 - collected from the Core Recycler on the 3rd business day;
- For a business:
 - By check mailed to the Seller's business address;
 - By check collected immediately;
 - A business that has a contract with the Core Recycler or a licensed auto dismantler may also receive immediate payment by debit card or credit card.

[back to top](#)

Retention - Catalytic Converters

Records must be retained for not less than 2 years

[back to top](#)

Inspection - Catalytic Converters

Core Recyclers shall make records available for inspection by local law enforcement upon demand.

[back to top](#)

Hold

90 day hold on property in the possession of a Dealer or Recycler upon receipt of a written notice from a peace officer with probable cause to believe that the property is stolen. The written notice must describe the item(s) to be held and the case number. Property subject to a hold must be produced at all reasonable times and places or may be delivered to any peace officer upon request of any peace officer who is a member of the same agency as the issuing officer. A hold is issued in lieu of an officer seizing the property suspected stolen.

The Dealer or Recycler may not release or dispose of the property during the hold except pursuant to a court order or upon receipt of a written authorization signed by a peace officer who is a member of the same agency as the issuing officer. If the agency has no knowledge of the property on hold being reported as stolen, the property shall be released "in a timely fashion" by a written notice to the Dealer or Recycler. If the agency has knowledge the property has been reported stolen, they shall notify the person of the name and address of the Dealer or Recycler and authorize the property's release to that person; the agency shall release the hold once 60 days have elapsed after the person is notified. If a person seeks to recover property subject to a hold, the Dealer or Recycler shall advise the person of the name and badge number of the issuing officer

and the name of their agency; if the property is not held pursuant to a criminal prosecution the hold shall be released.

Prohibited Material received without a certification and reported to law enforcement must be set aside and not sold pending a determination by the law enforcement agency.

[back to top](#)

Theft Alert Notifications

A Junk Dealer or Recycler shall request to receive theft alert notifications regarding the theft of commodity metals, including, but not limited to, ferrous metal, copper, brass, aluminum, nickel, stainless steel, and alloys, in the junk dealer's or recycler's geographic region from the theft alert system maintained by ISRI or its successor.

Under the newly created [Cal. Penal Code](#) Part 4, Title 1, Ch. 2, Art. 6, § 11199.5, local law enforcement are encouraged to report thefts of commodity metals that have occurred within their jurisdiction to the theft alert system to ensure that users receive timely and thorough information regarding metal thefts. ISRI or its successor shall not sell subscribers' information received pursuant to this section to third parties.

[back to top](#)

Weighmaster Licensing

In addition to the standard requirements for weighmasters ([Cal. Bus. & Prof. Code](#) Div. 5, Ch. 7, §12700-12737), a Junk Dealer or Recycler applying for or renewing a weighmaster's license with the Department of Food and Agriculture must also submit:

- A copy of the applicant's current business license;
- A statement that the applicant has filed an application for a stormwater permit or is not required to obtain one;
- A statement that the applicant either has the equipment necessary to comply with the photographic and thumbprinting requirements for Nonferrous Metals or will not be purchasing or selling Nonferrous Metals;
- A statement that the applicant has requested to receive theft alert notifications, unless ISRI or its successor requires payment for use of the system; and
- The name or names of any deputy weighmasters.

The Department will investigate the application within 90 days for a new license or 1 calendar year for a renewal. If the information is determined to be inaccurate the Department will send a notice to the Dealer or Recycler. The Dealer or Recycler will have 14 days to provide accurate information or their license will be revoked. A Dealer or Recycler whose license is revoked is entitled to a hearing.

A weighmaster who is or is performing services on behalf of a Dealer or Recycler must pay the standard annual license fees as well as an additional:

- \$500 for each location if operating from fixed locations;
- \$500 if operating at other than a fixed location.

These additional requirements will sunset on January 1, 2024 unless removed or extended.

[back to top](#)

Penalties

A Dealer or Recycler that violates the Recordkeeping, Retention or Inspection provisions commits a misdemeanor punishable by:

- 1st offense: at least \$1,000 fine and/or at least 30 days imprisonment in county jail;
- 2nd offense: at least \$2,000 fine and/or at least 30 days imprisonment in county jail. A court **may** order the defendant to stop engaging as a Dealer or Recycler for at most 30 days.
- 3rd or subsequent: at least \$4,000 fine and/or at least 6 months imprisonment in county jail. A court **shall** order the defendant to stop engaging as a Dealer or Recycler for at least 1 year.

Any unauthorized disclosure of personal information collected from a Seller by a Dealer or Recycler is prohibited and punishable by a civil fine of up to \$5,000.

A defendant convicted of theft of property that has been placed on hold shall be ordered to pay the Dealer or Recycler for reasonable costs for storage of the property and pay the victim for both the value of the property stolen and any reasonable collateral damage caused by the theft.

A person who makes a false or fictitious statement regarding information required for catalytic converters or violates requirements for catalytic converters commits a misdemeanor. A knowing and willful violation is punishable by:

- 1st offense: \$1,000 fine;
- 2nd offense: at least \$2,000 fine. A court **may** order the defendant to cease engaging as a Core Recycler for at most 30 days.
- 3rd or subsequent: at least \$4,000 fine. A court **shall** order the defendant to cease engaging as a Core Recycler for at least 1 year.

[back to top](#)

Preemption

Preempts city and/or county ordinances involving Nonferrous Material unless the ordinance is passed by a 2/3rds vote and can be demonstrated by clear and convincing evidence to be both necessary and addressing a unique problem within and specific to the jurisdiction that is not effectively addressed by the state law.

[back to top](#)

References and Recent Amendments

- Junk Dealers and Recyclers: [Cal. Bus. & Prof. Code, Div. 8, Ch. 9, Art. 3](#). Junk; § 21600 to § 21610
- Weighmaster Licensing as applies to Recyclers: [Cal. Bus. & Prof. Code Div. 5, Ch. 7](#). Weighmasters; § 12703.1 and § 12704
- Law Enforcement Reports of Metal Theft: [Cal. Penal Code, Part 4, Title 1, Ch. 2, Art. 6, § 11199.5](#). Reports of Metal Theft
- [Office of the Attorney General - Junk & Recycle Dealers](#); includes a downloadable Record of Junk Sale or Purchase form PDF

Recent Amendments

- [2013 California SB 485](#) (effective January 1, 2014)
- [2014 California AB 2312](#) (effective January 1, 2015)
- [2015 California AB 236](#) (effective January 1, 2016)
- [2018 California AB 2676](#)
- [2019 California SB 143](#) (effective September 5, 2019)

[back to top](#)

COLORADO

C.R.S. Title 18, Article 13, Section 111; §18-13-111.
Purchases of commodity metals - violations - commodity metals theft task force - creation - composition - reports - legislative declaration - definitions - repeal

Colorado Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Registration - ISRI Scrap Theft Alert System](#)
- [Payment Restrictions](#)
- [Penalties](#)
- [Task Force](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Commodity Metal" means copper; a copper alloy, including bronze or brass; or aluminum. Commodity Metal does not include precious metals such as gold, silver, or platinum. Additionally, recyclable food and beverage containers (but not metal beer kegs) are exempt from the recordkeeping requirements.

"Dealer" means any person, business, or entity that buys, sells, or distributes, for the purpose of recycling, any Commodity Metal on a wholesale basis.

[back to top](#)

Exemptions

Exempts a person or entity that does not provide remuneration for commodity metals collected in drop-off curbside containers or at materials recovery sites.

The Recordkeeping provision does not apply to:

- Any materials purchased from a regulated public utility or an original manufacturer of scrap or of industrially generated scrap;
- The purchase of recyclable food and beverage containers from any source (a metal beer keg suitable for reuse is not a recyclable beverage container), or
- Any scrap involved in a transaction between dealers or governmental entities.

[back to top](#)

Recordkeeping

Dealers are required to keep a book or register (a written or electronic record of transactions, including sequentially numbered receipts containing the information required) detailing all transactions involving commodity metals with the following information:

- "Record the identification of a seller" and the method by which the Seller verified his or her identity. The Seller must verify their identity with one of the following:
 - A valid Colorado driver's license;
 - A Colorado identification card issued by the Department of Revenue;
 - A valid driver's license from another state with a picture identification;

- A military identification card;
- A valid United States passport; or
- An alien registration card.
- A signed statement that the Seller is the owner or is otherwise entitled to sell, sworn and affirmed under penalty of law.
- License plate number and description of the delivery vehicle.
- Date and place of each purchase.
- Description and quantity of the metal purchased.
- Digital photos or videos identifying the Seller and the commodity metal sold.
 - For purchases over \$300, a Dealer must either take picture of the Seller when the money is paid or pay the Seller by check.

[back to top](#)

Retention

Records must be retained for 3 years after the date of purchase, except photo and/or video records must be retained for 180 days. Scrap Theft Alerts must be downloaded and retained for 90 days. Documentation that employees were provided with and trained in the use of scrap theft alerts must also be retained for an unspecified period.

[back to top](#)

Inspection

The book or register containing the records and any photos or videos must be made available to any peace officer for inspection at any reasonable time.

[back to top](#)

Registration - ISRI Scrap Theft Alert System

A purchaser of metals must sign up with the scrap theft alert system maintained by ISRI or its successor and receive, download, and maintain for 90 days copies of any theft alerts generated. The purchaser must use the alerts to identify potentially stolen commodity metals and train their employees to use the alerts during their daily operations. The purchaser must also maintain documentation that their employees were provided scrap theft alerts and educated in how to use them.

Law enforcement authorities are encouraged to join the system and report thefts of commodity metals occurring within their jurisdictions. Commercial stakeholders affected by commodity metals theft are encouraged to sign up for and participate in the system.

[back to top](#)

Payment Restrictions

Cash is allowed for purchases under \$300. For purchases over \$300, a check is required unless a picture of the Seller is taken when the money is paid.

[back to top](#)

Penalties

Violations of the law or knowingly giving false information are:

- A Class 2 misdemeanor if the value of the metal involved is less than \$500; or
- A Class 1 misdemeanor if the value is \$500 or more.

[back to top](#)

Task Force

A 10 person commodity metals task force made of representatives from the police, construction, recycling trade associations, scrap metal dealers, local governments, public utilities, and railroads shall meet at least once a year to discuss issues related to theft of commodity metals. The task force is specifically directed to consider how to track or apprehend stolen metals prior to the point of sale; when and how a purchaser should be required to report possibly stolen metals to law enforcement; and penalties for egregious and repeat violators. The task force shall report annually to the House and Senate Judiciaries and is repealed effective September 1, 2025.

[back to top](#)

References and Recent Amendments

[C.R.S. Title 18, Article 13, § 18-13-111](#). Purchases of commodity metals - violations - commodity metals theft task force - creation - composition - reports - legislative declaration - definitions - repeal

Recent Amendments

- [2016 Colorado HB 1182](#)

[back to top](#)

CONNECTICUT

Junk Dealers: C.G.S. Title 21, Chapter 405
§ 21-9 to § 21-14

Motor Vehicle Recycler Exemption:
C.G.S. Title 14, Chapter 246, § 14-67w.

Scrap metal processors exempted. Receipt of motor vehicles. Required information. Inspection of premises and records. Retention of records. Regulations.

Solid Waste Facility Permitting Exemption
C.G.S. Title 22a, Chapter 446d, § 22a-208f.
Scrap metal processor exempt from permit requirement.

Connecticut Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Licensing](#)
- [Requirements for Business Vehicles](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Annual Report](#)
- [Hold](#)
- [Purchase Restrictions - Metal Beer Kegs](#)
- [Purchase Restrictions - Municipal Property](#)
- [Payment Restrictions - Municipal Property](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Please Note: Connecticut's rules for "Scrap Metal Processors" are contained within the chapter regulating Junk Dealers. Businesses may fall under the definition (and regulations) for a "Junk Dealer" (defined in [C.G.S. § 21-9](#)) or a "Motor vehicle recycler" ([C.G.S. § 14-67g](#)). Connecticut does not define the materials covered; the definitions provided have been extrapolated from the text.

Materials Covered and other Definitions (edited for clarity and conciseness)

Junk, as used in this summary, refers to junk, old metals, scrap, rags, waste paper or other secondhand articles that are no longer serviceable for their original manufactured purpose.

Scrap Metal, as used in this summary, refers to metals purchased or received by a Scrap Metal Processor.

Restricted Wire or Cable, as used in this summary, refers to wire or cable that could be used in the transmission of telecommunications or data or scrap equipment, or wire or cable that could be used in the transmission or distribution of electricity by an electric distribution company.

A bronze statue, plaque, historical marker, cannon, cannon ball, bell, lamp, lighting fixture, lamp post, architectural artifact or similar item is subject to special reporting requirements.

Stainless steel or aluminum alloy beer or other beverage keg containers are subject to special purchase restrictions.

Municipal Property is subject to special purchase and payment restrictions but is not defined.

Railroad Material, as used in this summary, refers to materials, equipment, or parts used in the construction, operation, protection, or maintenance of a railroad right-of-way.

"Junk Dealer" means any person who engages in business as a dealer and trader in junk, old metals, scrap, rags, waste paper or other secondhand articles that are no longer serviceable for their original manufactured purpose.

"Junk Yard" means any place in or on which old metal, glass, paper, cordage or other waste or discarded or secondhand material, which has not been a part, or is not intended to be a part, of any motor vehicle, is stored or deposited.

"Scrap Metal Processor", as defined under [C.G.S. § 14-67w](#), is any place of business and any place of deposit with facilities for preparing and processing metals into a form suitable for remelting by a foundry, steel mill or other remelter, which:

- Only receives motor vehicles from motor vehicle recyclers licensed under [C.G.S. § 14-67l](#), or a public agency exempted from licensing under [C.G.S. § 14-67i\(b\)](#);
- Does not sell automobile parts for reuse as parts, and
- Does not retain a motor vehicle for longer than 30 days before processing.

[back to top](#)

Exemptions

Connecticut Title 21, Chapter 405 does not apply to dealers in motor vehicles (as defined in [C.G.S. Chapter 246](#)) and dealers in antique household furniture, china or glassware.

[back to top](#)

Licensing

Any Junk Dealer in any locality must apply for a local business license. The fee for a license may be no less than \$2 and no more than \$10 for each vehicle used in connection with the business. A license expires after one year, unless it is revoked sooner. Junk Dealers must register with the Department of Motor Vehicles. Each vehicle used by the business must display in 4" by 2" painted lettering: the name of the person conducting the business, the business license number, and the name of the municipality where the license was granted.

[back to top](#)

Requirements for Business Vehicles

Each Junk Dealer must display, on each business vehicle, the name of the person conducting the business, the number of the license under which the business is being conducted and the name of the municipality where the license was granted. The names and number must also be painted on the outside of the body of the vehicle in letters no less than four inches in height and two inches in width.

[back to top](#)

Recordkeeping

A Junk Dealer must keep a book, written in English, with the following information:

- A description of articles received;
- The Seller's name, residence, and general description;
- The time and hour when the property was received.

Scrap Metal Processors must record the following for all loads of Scrap Metal:

- A description of the scrap metal purchased, including the weight;
- The price paid for the metal;

- The identification of the person who delivered the metal;
- A photograph of the delivery vehicle, including the license plate.
- For loads of Scrap Metal that contain Restricted Wire or Cable or Railroad Material:
 - A photograph of the delivery vehicle, including the license plate and the load of scrap metal;
 - A copy of the delivery vehicle's registration certificate;
 - A description of the material received;
 - A statement as to the location from which the material came.
- For Motor Vehicles (see [C.G.S. § 14-67w](#)):
 - The make of the motor vehicle;
 - The year the motor vehicle was manufactured;
 - The engine number of the motor vehicle, if any;
 - The identification number of the motor vehicle;
 - The name and address of the person the vehicle was received from; and
 - The date of the receipt and sale for the motor vehicle if any sale occurred.

To comply with the annual reporting requirement of [C.G.S. § 22a-208f](#), a Scrap Metal Processor should track the amount of scrap metal purchased or received that was generated in Connecticut, and include or identify:

- A good faith estimate of the amount received directly from in-state construction or demolition sites;
- Monthly amounts of scrap metal generated within Connecticut;
- "Other recyclable materials" generated within Connecticut; and
- Recycling residue generated and the destination facility for such, including whether the destination facility is in Connecticut.

[back to top](#)

Retention

Scrap Metal Processors must retain all records for at least 2 years.

[back to top](#)

Inspection

A Junk Dealer's records, all property mentioned in the records, and their place of business may be examined at any time by the selectmen of the town, the chief of police of a city or borough, or any person designated by either.

A Scrap Metal Processor's records must be open for inspection by law enforcement upon request during normal business hours.

For Scrap Metal Processors receiving motor vehicles (see [C.G.S. § 14-67w](#)), the record and premises used for processing motor vehicle junk may be examined during normal business hours by representatives of the Department of Motor Vehicles, the Division of State Police within the Department of Public Safety, or any organized local police department.

[back to top](#)

Reporting

A Junk Dealer must make weekly, sworn reports of their transaction records to the local chief of police or to the town clerk.

A Scrap Metal Processor, Junk Dealer, or Junk Yard owner must immediately notify local law enforcement of the name, if known, and motor vehicle license plate number, if available, of any person offering to sell a bronze statue, plaque, historical marker, cannon, cannon ball, bell, lamp, lighting fixture, lamp post, architectural artifact or similar item.

[back to top](#)

Annual Report

Under [C.G.S. § 22a-208f](#), Scrap Metal Processors qualify for an exemption from the solid waste facility permitting requirements if the Processor submits a report to the Commissioner of Energy and Environmental Protection on July 31 of each year containing the amount of scrap metals the Processor purchased or received in the prior state fiscal year that were generated within Connecticut. The report must be on a form prescribed by the Commissioner and include or identify:

- A good faith estimate of the amount received directly from in-state construction or demolition sites;
- Monthly amounts of scrap metal generated within Connecticut;
- "Other recyclable materials" generated within Connecticut;
- Recycling residue generated and the destination facility for such, including whether the destination facility is in Connecticut.

[back to top](#)

Hold

Junk Dealers must automatically hold all goods for 5 days after filing their weekly reports.

Scrap Metal Processors must segregate and hold for five days any Restricted Wire or Cable unless purchased from:

- A person licensed pursuant to engage in the business of demolition of buildings, or
- A person who has already segregated the items under this law and who provides a written statement affirming that segregation.

[back to top](#)

Purchase Restrictions - Metal Beer Kegs

No Scrap Metal Processor, Junk Dealer, or Junk Yard owner may purchase or receive a stainless steel or aluminum alloy beer or other beverage keg container if it is marked with an indicia of ownership of any person or entity other than the person or entity presenting the container for sale.

[back to top](#)

Purchase Restrictions - Municipal Property

No Scrap Metal Processor, Junk Dealer, or Junk Yard owner may purchase any property that they suspect or have reasonable cause to believe is municipal property, unless the person delivering the property presents at the time of delivery a letter on the municipality's letterhead authorizing the purchase or receipt and signed by either:

- The chief executive officer of the municipality; or

- The head of the municipal department responsible for maintaining such public property.

[back to top](#)

Payment Restrictions - Municipal Property

Payment for municipal property must be sent to the official designated in the letter of authorization.

[back to top](#)

Penalties

A Processor that purchases scrap metal that is subsequently determined stolen and returned to the owner shall have a civil cause of action against the Seller.

A violation of the Scrap Metal Processor provisions is a Class C misdemeanor for a 1st offense; a Class B misdemeanor for a 2nd offense; or a Class A misdemeanor for a 3rd or subsequent offense.

Any person who operates as a Junk Dealer without complying with the law shall be fined up to \$50 and/or imprisoned up to 3 months.

[back to top](#)

References and Recent Amendments

Statutes

- Scrap Metal Processors: [C.G.S. Title 21, Chapter 405](#). Junk Dealers; § 21-9 to § 21-14
- Motor Vehicle Recycler Exemption: [C.G.S. Title 14, Chapter 246, § 14-67w](#). Scrap metal processors exempted. Receipt of motor vehicles. Required information. Inspection of premises and records. Retention of records. Regulations.
- Solid Waste Facility Permitting Exemption: [C.G.S. Title 22a, Chapter 446d, § 22a-208f](#). Scrap metal processor exempt from permit requirement.

Recent Amendments

- [2013 Connecticut SB 1081](#) (effective October 1, 2013)
- [2014 Connecticut HB 5506](#) (effective October 1, 2014)
- [2016 Connecticut HB 5411](#) (effective July 1, 2016)

[back to top](#)

DELAWARE

Del. Code. Title 24, Chapter 23. Pawnbrokers,
Secondhand Dealers and Scrap Metal Processors;
24 Del. C. § 2301 to § 2317
(as amended by 2017 Delaware SB 73)

Delaware Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Hold](#)
- [Seizure of Stolen Goods by Processors](#)
- [Purchase Restrictions](#)
 - [Catalytic Converters](#)
 - [Restricted Items](#)
- [License](#)
- [Penalties](#)
- [Preemption](#)
- [State Police Annual Report](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

Scrap Metal, as used in this summary, refers to the following items listed in § 2302.(b)(1) as requiring reporting:

- Copper;
- Silver;
- Gold;
- Brass;
- Platinum; or
- Bronze.
- Automobiles or automobile parts displaying a VIN;
- Batteries 12 volt or higher.

Restricted Items, as used in this summary, refers to the following items listed in § 2307.(d) as requiring the Seller provide authorization:

- Metal bleachers;
- Hard-drawn copper;
- Metal beer kegs;
- Cemetery urns;
- Grave markers;
- Materials related to railroad infrastructure; and
- Any other used articles owned by a public utility including: guardrails; manhole covers; metal light poles; tree grates; water meters; and street signs.

"Scrap Metal Processor" means any person, company, corporation, or member or members of a partnership or firm engaged in the business of selling or receiving any worn out or discarded metal, old iron, used plumbing fixtures, other metals, automobiles, automobile parts, chain, copper, lead, brass, or other parts of machinery.

Recordkeeping

Processors shall create a record and provide information for transactions involving articles listed as Scrap Metal. Records shall be kept electronically in a format to be determined by the Secretary of Safety and Homeland Security, and include the following information:

- The date and time of purchase;
- The type and grade of Scrap Metal;
- If payment is based on weight, the weight of each type and grade;
- The amount or other consideration for the Scrap Metal;
- The registration plate number, make, and model of the delivery vehicle;
- The Seller's name and address;
- The Seller's signature;
- The Processor's signature;
- For each Seller, either:
 - The date of birth and driver's license; or
 - Identification information from a valid state-issued photo ID card that provides a physical description of the individual, including the sex, race, distinguishing features, and approximate age, height and weight.
- A copy of the identification provided by the Seller;
- A photo of the Seller;
- The name of the person making the record entry;
- An electronic photo or video image of the articles.

[back to top](#)

Retention

Records shall be retained for 1 year from the date the transaction was recorded, except electronic images of the articles acquired need only be retained for 30 days.

[back to top](#)

Inspection

Records and inventory on the premises shall be subject to inspection during regular business hours by a law-enforcement officer of Delaware, or by the Attorney General or any Deputy AG, to determine if they are being maintained as required. Records shall be provided to police immediately upon request.

[back to top](#)

Reporting

Records shall be reported electronically by the close of business the next business day to the law enforcement agency with primary jurisdiction over the Processor's location. The Secretary of the Department of Safety and Homeland Security may determine the format of reports and promulgate rules and regulations that allow for their completion and filing. A copy of the electronic images of the articles acquired must be supplied to a law enforcement agency within 24 hours of a specific request.

[back to top](#)

Hold

Processors must hold platinum, gold, and silver articles for 18 days. Law enforcement officers may extend a hold on such items for an additional 30 days if they know or have reason to believe the property is missing or stolen.

Processors must hold all copper and brass articles for 72 hours from the date and time the item was electronically reported, not including holidays or weekends, unless all of the following apply:

- Articles are purchased or received from a commercially licensed entity;
- Articles are of the type commonly received from commercial entities; and
- Payment is made directly to the commercial entity and not the Deliverer.

Processors who take in a scrapped or dismantled vehicle without a title must hold the vehicle until it is cleared by a State Police auto theft technician.

[back to top](#)

Seizure of Stolen Goods by Processors

Processors may seize any goods offered to them for sale when they have reason to believe the goods have been stolen. The Processor shall immediately notify the law enforcement agency with jurisdiction over the premises where the transaction took place or where the goods are currently located. Any person acting in compliance with this section shall be immune from civil or criminal penalties if that person acts in good faith.

[back to top](#)

Purchase Restrictions

Processors may not knowingly purchase or acquire any article:

- From persons under 18 years old unless that person is recycling aluminum cans or accompanied by a parent, grandparent, or guardian;
- From persons under the influence of any intoxicating liquor or drug when such is visible or apparent; or
- That has an altered, obliterated, or otherwise tampered with serial number or identifying marking.

[back to top](#)

Catalytic Converters

A Processor may only purchase a catalytic converter from a Seller who provides identification as a licensed automotive dismantler or scrap metal processor, or as an agent or employee of a licensed commercial enterprise.

[back to top](#)

Restricted Items

A processor may only purchase Restricted Items if the Seller provides appropriate authorization from a relevant business or unit of federal, State, or local government specifically authorizing the Seller to conduct the transaction.

[back to top](#)

License

Persons must obtain a license before carrying on business as a Processor. Applicants shall pay a \$50 fee to the State Police to go to the State's General Fund. Every person receiving a license shall pay an annual subscription fee, not to exceed \$300, to the electronic reporting system designated.

Licenses granted by the State Police shall expire annually on December 31st, and shall designate the address in which the Processor shall carry on its business. Aside from the acquisition of goods, no business may be engaged in any other building than the one designated in the license. The Director of the Professional Licensing Section of the State Police may suspend or revoke a license or issue an emergency suspension for a violation of the chapter or regulations. Anyone licensed must notify the Licensing Section within 5 days of being arrested for any misdemeanor or felony crime.

An applicant must be at least 18 years old; submit a current valid Delaware business license issued by the Dept. of Revenue; and notify the Licensing Section within 10 days of any change of address, phone, email, or contact person. An applicant must not have any pending criminal charges; have been convicted of a felony within 5 years of the application date, or have been convicted of a misdemeanor involving a theft related offense or moral turpitude within 3 years of the application date.

The Professional Licensing Section must keep a register of all applications and complete records, changes and additions to rules and regulations, hearings and other such matters as determined by the Secretary of Safety and Homeland Security. The Licensing Section may adopt and revised rules and regulations as may be necessary, deny or withdraw approval from applicants, oversee renewals and fees, conduct hearings upon request for denial, suspension, or revocation of licenses, have the power to issue subpoenas, compel witnesses, and administer oaths, and have all duties, powers, and authority necessary to the enforcement of the chapter and granted by the Secretary.

[back to top](#)

Penalties

Except where another penalty is provided, any violator shall be guilty of a misdemeanor and subject to up to a \$10,000 fine.

The Director of the Professional Licensing Section of the State Police may suspend or revoke a license or issue an emergency suspension for a violation of the chapter or regulations. Anyone licensed must notify the Professional Licensing Section within 5 days of being arrested for any misdemeanor or felony crime.

Assessment of a civil or administrative penalty shall be determined by the nature of the violations and other listed factors. In the event of nonpayment, the Superintendent of the Delaware State Police or their designee may bring civil action for collection of the penalty, interest, attorney fees, and costs, and the validity and appropriateness of the penalty shall not be subject to review.

The Director of the Professional Licensing Section may impose any of the following on a licensee found guilty of violating any provision of this chapter or rule or regulation by the Secretary of Safety and Homeland Security. After receipt of a written notice, the applicant or license holder shall be afforded a hearing as outlined in the chapter.

- Suspend, refuse to issue or renew, or permanently revoke a license;
- Issue an emergency suspension;
- Issue a letter of reprimand;
- "Or otherwise discipline".

The Director may request that the Attorney General apply for a permanent or temporary injunction, restraining order, or other order against a Processor that the Director judges to have engaged in a violation of the chapter or its rules.

[back to top](#)

Preemption

Political subdivisions and municipalities may enact laws more restrictive than the state law, but they "shall be in addition to, not in lieu of, the regulations set forth in this chapter."

[back to top](#)

State Police Annual Report

The State Police shall maintain an annual report setting forth the list of licensed Processors in Delaware and their respective addresses and contact information.

[back to top](#)

References and Recent Amendments

[Del. Code Title 24, Ch. 23](#). Pawnbrokers, Secondhand Dealers and Scrap Metal Processors; 24 § 2301 to 24 § 2317

Recent Amendments

[2013 Delaware SB 63](#) (effective July 31, 2013)

[2014 Delaware SB 194](#) (effective July 15, 2014)

[2017 Delaware SB 73](#) (effective July 21, 2017)

[back to top](#)

FLORIDA

Fla. Stat. Title XXXIII, Ch. 538, Part II
Secondary Metals Recyclers
§ 538.18 to § 538.28

Fla. Stat. Title XLVI, Chapter 812; § 812.145
Theft of Copper or Other Nonferrous Metals

Fla. Stat. Title XLVI, Chapter 812; § 812.146
Civil Liability of Owner of Metal Property

Florida Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Motor Vehicles](#)
- [Restricted Regulated Metal Property](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Hold](#)
- [Payment Restrictions](#)
- [Purchase Restrictions](#)
- [Hours of Operation](#)
- [Registration](#)
- [Petition for Return of Stolen Property](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Regulated Metals Property" means any item composed primarily of Nonferrous Metals. Includes stainless steel beer kegs and items made of Ferrous Metal obtained from any Restricted Regulated Metals Property. Excludes aluminum beverage containers, used beverage containers, or similar.

"Ferrous Metals" means any metals containing significant quantities of iron or steel.

"Nonferrous Metals" means metals not containing significant quantities of iron or steel, but excludes "Precious Metals" (items containing gold, silver, or platinum; excludes chemicals or automotive, photographic, electrical, medical, or dental materials or electronic parts.)

"Restricted Regulated Metals Property" means the following as listed in § 538.26(5)(b):

- A manhole cover.
- An electric light pole or other utility structure and its fixtures, wires, and hardware that are readily identifiable as connected to the utility structure.
- A guard rail.
- A street sign, traffic sign, or traffic signal and its fixtures and hardware.
- Communication, transmission, distribution, and service wire from a utility, including copper or aluminum bus bars, connectors, grounding plates, or grounding wire;
- A funeral marker or funeral vase.
- A historical marker.
- Railroad equipment, including, but not limited to, a tie plate, signal house, control box, switch plate, E clip, or rail tie junction.
- Any metal item that is observably marked upon reasonable inspection with any form of the name, initials, or logo of a governmental entity, utility company, cemetery, or railroad.

- A copper, aluminum, or aluminum-copper condensing or evaporator coil, including its tubing or rods, from an air-conditioning or heating unit, excluding coils from window air-conditioning or heating units and motor vehicle air-conditioning or heating units.
- An aluminum or stainless steel container or bottle designed to hold propane for fueling forklifts.
- A stainless steel beer keg.
- A catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a motor vehicle.
- Metallic wire that has been burned in whole or in part to remove insulation.
- A brass or bronze commercial valve or fitting, referred to as a “fire department connection and control valve” or an “FDC valve,” that is commonly used on structures for access to water for the purpose of extinguishing fires.
- A brass or bronze commercial potable water backflow preventer valve that is commonly used to prevent backflow of potable water from commercial structures into municipal domestic water service systems.
- A shopping cart.
- A brass water meter.
- A storm grate.
- A brass sprinkler head used in commercial agriculture.
- More than two lead-acid batteries, or any part or component thereof, in a single purchase or from the same individual in a single day.

"Personal Identification Card" means a valid Florida driver license, a Florida identification card issued by the Dept. of Highway Safety and Motor Vehicles or the equivalent issued by another state, a passport, or an employment authorization issued by the United States Bureau of Citizenship and Immigration Services that contains a photo and current address.

[back to top](#)

Exemptions

Provisions impacting the purchase of Regulated Metals (but not Restricted Regulated Metals) do not apply to purchases from the following:

- State registered charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organizations or associations, or from any nonprofit;
- A law enforcement officer acting in an official capacity;
- If proof of such is presented to the Recycler:
 - A trustee in bankruptcy, executor, administrator, or receiver;
 - Any public official acting under judicial process or authority; or
 - A sale on the execution, or by virtue of any process issued by a court; or
- A manufacturing, industrial, or other commercial vendor that generates Regulated Materials in the ordinary course of business.

This exemption impacts the Recordkeeping and Hold provisions as well as the \$1,000 cash threshold for Regulated Metals in the Payment Restriction provision.

[back to top](#)

Recordkeeping

A Secondary Metals Recycler (Recycler) must either:

- Maintain legible English paper and electronic records of all Regulated Metal purchases on forms and formats approved by the Dept. of Law Enforcement; or
- An electronic database with the information required, along with an electronic oath of ownership with the Seller's electronic signature and an electronic image of the seller's right thumbprint. The information must be able to be printed in the image of the Dept. of Law Enforcement's form.

Records must include the following:

- The Recycler's name and address;
- The name, initials, or other identification of the individual entering the record;
- The Date and Time of the transaction;
- The weight, quantity, or volume, and a description of the type of Regulated Metals;
- The amount of consideration given (**note: amount of consideration is not to be included in daily electronic reports to law enforcement**);
- The Deliverer's signed statement that they are the rightful owner or entitled to sell;
 - For Stainless Steel Beer Kegs, written documentation from the manufacturer that the Seller owns the keg or is an employee or agent of the manufacturer;
- The distinctive number from the Seller's personal ID card;
- A description of the Seller / Deliverer, including:
 - Full Name, current residential address, workplace, and home and work phone numbers;
 - Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks
 - Right thumbprint, free of smudges and smears
 - Vehicle Description, including make, model, and tag number of delivery vehicle and trailer;
 - Any other information required on the Dept. of Law Enforcement form;
- A photo, video, or digital image of the Regulated Metals;
- A photo, video, or similar likeness of the person receiving consideration with their facial features clearly visible.

[back to top](#)

Motor Vehicles

Recyclers that purchase a motor vehicle from a licensed salvage motor vehicle dealer or another Secondary Metals Recycler and that use a mechanical crusher to convert the vehicle to scrap must obtain the Seller's signed statement that they have surrendered the title to the Dept. of Highway Safety and Motor Vehicles or otherwise complied with titling requirements. Recyclers are not liable if they obtain and retain the signed statement.

[back to top](#)

Restricted Regulated Metal Property

A Recycler must obtain reasonable proof that the Seller of Restricted Regulated Metal:

- Owns such property, with proof including a receipt, bill of sale, or similar, or;

- Is authorized to sell on behalf of the property owner, with proof including a signed authorization letter on the owner's letterhead dated within 90 days of the sale.

[back to top](#)

Retention

Records must be retained for no less than 3 years from the transaction date.

[back to top](#)

Inspection

After properly identifying themselves as a law enforcement officer, an officer may, during the Recycler's usual and customary business hours, inspect any and all purchased Regulated Metals Property and records in the Recycler's possession.

[back to top](#)

Reporting

Electronic transaction records shall be electronically transmitted to the appropriate law enforcement official by 10 AM of the business day following the transaction. **The electronic law enforcement report must not contain the price paid.** Recyclers who provide electronic reports are not required to also deliver the original or paper copies; however, the official may request the Recycler make the original transaction form (including the price paid) available within 24 hours of receiving the a request.

[back to top](#)

Hold

15 calendar day hold upon receipt of a written hold notice from a law enforcement officer specifically identifying those items of Regulated Metal in the Recycler's possession believed stolen and subject to the notice. An officer may release the metal early. An officer may also extend the hold for 45 days from the receipt of a written extended hold notice. At the end of a hold period the Recycler may dispose of the property unless otherwise ordered by a court of competent jurisdiction.

A Recycler shall hold Regulated Metals after receiving a Petition for Return (see provision for more details) until the court determines the respective interests of the parties.

[back to top](#)

Payment Restrictions

\$1,000 cash threshold for Regulated Metals; payment in excess shall be made by check issued and payable to the Seller for all except those listed in the Exemption provision.

No cash for Restricted Regulated Metals; payment shall be made by check or by electronic payment. Payment must be provided within 3 days of the transaction. Electronic payments shall be transmitted directly to the Seller's or Seller's employer's bank account. Checks shall be issued and payable to the Seller and mailed directly to the street address on their driver's license (no P.O. boxes); except that Sellers listed in the Exemption provision may receive the check at the time of purchase (a Seller acting under a court writ or process must be a Sheriff).

[back to top](#)

Purchase Restrictions

A Recycler may not purchase:

- Regulated, Restricted Regulated, or Ferrous Metals:
 - from a Seller that does not transport the metals in a motor vehicle; or
 - From any location other than a fixed location;
- Regulated Metals from a Seller who:
 - Uses a name other than their own name or registered business name;
 - Is younger than 18 years old; or
 - Is visibly or apparently under the influence of drugs

[back to top](#)

Hours of Operation

A Recycler may not purchase Regulated, Restricted Regulated, or Ferrous Metals between 7 PM and 7 AM.

[back to top](#)

Registration

A Recycler must register with the Department of Revenue and conspicuously display their registration at each recycling location. An application must list all recycling locations and pay an annual registration/renewal fee of \$6 per location in addition to other processing costs. An applicant that is a natural person must include a complete set of law enforcement-certified fingerprints for a background check. All partners of a partnership must make individual applications. A corporation must include the name and address of their registered agent and a certified statement that they are duly organized or certified to do business in Florida. The Dept. of Revenue shall release the name and address of a registered Recycler upon request to a law enforcement official with jurisdiction.

[back to top](#)

Petition for Return of Stolen Property

If a Recycler contests an identification or ownership of Regulated Metals, the party claiming ownership of stolen goods may bring an action for replevin provided a timely report of the theft was made to the proper authorities. The court may award the prevailing party reasonable attorney's fees and cost. A Recycler shall hold Regulated Metals after receiving a Petition for Return until the court determines the respective interests of the parties.

[back to top](#)

Penalties

A Recycler that knowingly and intentionally fails to maintain transaction records is presumed to know the metal was stolen. A Recycler who knowingly or intentionally violates the Inspection, Hold, Recordkeeping, Reporting, or Registration provisions is guilty of a 3rd degree felony, or a 2nd degree felony for a 3rd or subsequent offense. A person acting as a Recycler who is not registered commits a 3rd degree felony.

A person who knowingly gives false verification of ownership or false or altered identification and receives consideration from a Recycler for Regulated Metal commits:

- If the consideration is less than \$300, a 3rd degree felony;
- If the consideration is \$300 or more, a 2nd degree felony.

If a lawful owner recovers stolen Regulated Metals from a Dealer who complied with the law and the Seller is convicted of theft, a violation of this law, or dealing in stolen property, the defendant shall make full restitution to the Recycler including legal and other expenses.

The Dept. of Revenue may impose up to a \$10,000 civil fine for each knowing and intentional violation of the Registration provision. Registration may also be denied, revoked, restricted, or suspended, for any of the following in the previous 24 months:

- Convicted of knowingly and intentionally violating provisions of the Act, making a material false statement in their application, or engaging in a fraudulent act in connection with the purchase or sale of Regulated Metal;
- Convicted or plead guilty or nolo contendere to a felony involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or any felony drug offense or of knowingly and intentionally violating the Registration provision;
- Failure or refusal to pay sales tax owed within 30 days of receiving written notice from the Dept. of Revenue of failure to pay.

If the Recycler has not had their registration penalized in the previous 24 months, they will have a 12 month probationary period instead. If the Recycler's registration is penalized again during probation, both the original and new penalty shall be immediately reinstated.

Under [§ 812.145](#), Theft of Copper or Other Nonferrous Metals:

- A person who knowingly and intentionally takes nonferrous metals from a utility or communications service provider and thereby causes damages to a facility or interrupts or interferes with services or the ability to provide service commits a 1st degree felony. A person found in a civil action to have illegally taken nonferrous metals based on a violation of the above provision is liable to the utility or communications service provider for damages equal to 3 times the actual damages sustained by the provider due to any personal injury, wrongful death, or property damage caused by the theft, or three times any claim made against the utility or provider for personal injury, wrongful death, or property damage caused by malfunctions resulting from the violation, whichever is greater.
- A person who knowingly and intentionally removes nonferrous metals from an electrical substation without the utility's authorization commits a 1st degree felony.

Under [§ 812.146](#), Civil Liability of Owner of Metal Property, a public or private owner of metal property is not civilly liable to:

- A person injured during the theft or attempted theft of the metal property, or
- A person whose injuries were caused by a dangerous condition created as a result of the theft or attempted theft of the owner's metal property when the owner did not know and could not have reasonably known of the dangerous condition.

[back to top](#)

Preemption

The Hold provision "preempts municipal or county ordinances enacted after December 31, 2008, relating specifically to secondary metals recyclers holding such metals."

State law preempts ordinances or regulations relating to the purchase or sale of Regulated Metals Property or registration or licensure of Recyclers, unless the ordinance or regulation was originally enacted before March 1, 2012. Such may subsequently be amended to incorporate any state provisions. Does not apply to a county until July 1, 2013.

[back to top](#)

References and Recent Amendments

Statutes

- [Fla. Stat. Title XXXIII, Ch. 538, Part II](#) Secondary Metals Recyclers; § 538.18 to § 538.28
- [Fla. Stat. Title XLVI, Chapter 812; § 812.145](#) Theft of copper or other nonferrous metals
- [Fla. Stat. Title XLVI, Chapter 812; § 812.146](#) Civil liability of owner of metal property

Recent Amendments

- [2013 Florida HB 585](#) (effective July 1, 2013)

[back to top](#)

GEORGIA

Ga. Code Ann. Title 10, Chapter 1, Article 14.
Secondary Metals Recyclers
§ 10-1-350 to § 10-1-359.5

Georgia Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Vehicles](#)
- [Coils](#)
- [Burnt Copper Wire](#)
- [Catalytic Converters](#)
- [Burial Objects](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Payment Restrictions](#)
- [Hold](#)
- [Hours of Operation](#)
- [Registration](#)
- [Contested Ownership](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Regulated Metal Property" means any item composed primarily of any Ferrous Metals or Nonferrous Metals and includes Aluminum Property, Copper Property, and catalytic converters but shall not include aluminum beverage containers, used beverage containers, or similar beverage containers.

- "Ferrous Metals" means any metals containing significant quantities of iron or steel.
- "Nonferrous Metals" means stainless steel beer kegs and metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof.
- "Aluminum Property" means aluminum forms designed to shape concrete.
- "Copper Property" means any copper wire, copper tubing, copper pipe, or any item composed completely of copper.

"Burial Object" means any product manufactured for or used for identifying or permanently decorating a grave site, including, without limitation, monuments, markers, benches, and vases and any base or foundation on which they rest or are mounted.

"Coil" means any copper, aluminum, or aluminum-copper condensing coil or evaporation coil including its tubing or rods. Excludes coil from a window air-conditioning system, if contained within the system itself, or coil from an automobile condenser.

Vehicles, burnt copper wires and catalytic converters are subject to special purchase restrictions and reporting requirements but are not separately defined.

"Secondary Metals Recycler" means any person who is engaged in the business of paying compensation for Regulated Metal that has served its original economic purpose, whether or not engaged in converting Regulated Metal into raw material products consisting of prepared grades and having an existing or potential economic value.

"Seller" means the rightful owner of Regulated Metal or the individual authorized by the rightful owner to conduct the purchase transaction.

"Deliverer" means any individual who takes or transports Regulated Metal to the Recycler.

"Personal identification card" means a current and unexpired state driver's license or identification card, military identification card, or a current work authorization issued by the federal government, with the individual's name, address, and photograph.

"Business license" means a business license, an occupational tax certificate, and other document required by a county or municipal corporation and issued by the appropriate agency of such to engage in a profession or business.

[back to top](#)

Exemptions

Exempts purchases of Regulated Metal from:

- Organizations, corporations, or associations registered with Georgia as charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organizations or associations or from any nonprofit corporations or associations;
- A law enforcement officer acting in an official capacity;
- One of the following Sellers who presents proof of such to the Recycler:
 - A trustee in bankruptcy, executor, administrator, or receiver;
 - Any public official acting under judicial process or authority;
 - A sale on the execution, or by virtue, of any process issued by a court;
- A manufacturing, industrial, or other commercial vendor that generates or sells Regulated Metal Property in the ordinary course of its business, **provided that such vendor is not a Secondary Metals Recycler.**
- A vehicle purchased in compliance with § 40-3-36 by a used motor vehicle or used motor vehicle parts dealer licensed pursuant to Ch. 47 of Title 43.

[back to top](#)

Recordkeeping

A recycler must make a legible record of all Regulated Metal purchases with the following:

- The Recycler's name and address;
- The Date of the transaction;
- The weight, quantity, or volume, and a description of the type of Regulated Metal (general physical description, such as wire, tubing, extrusions, or castings);
- A digital photo or digital video image which shows the Regulated Metal in a reasonably clear manner;

- The amount of consideration given (**not to be included in Report**) and a copy of the check or voucher, or documentation evidencing the electronic funds transfer;
- The Seller's signed and sworn statement that they are the rightful owner or are authorized to sell the Regulated Metal;
- The Seller's signed and sworn statement stating that they understand the following:

"A secondary metals recycler is any person who is engaged, from a fixed location or otherwise, in the business in this state of paying compensation for regulated metal property that has served its original economic purpose, whether or not engaged in the business of performing the manufacturing process by which regulated metal property is converted into raw material products consisting of prepared grades and having an existing or potential economic value. No ferrous metals, nonferrous metals, aluminum property, copper property, or catalytic converters (aluminum beverage containers, used beverage containers, or similar beverage containers are exempt) may be purchased by a secondary metals recycler unless such secondary metals recycler is registered pursuant to Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated";

- The following from the Seller, and also from the Deliverer if applicable:
 - A copy of their valid personal ID card(s);
 - The distinctive number from, and type of, their personal ID card(s);
 - Their name(s) and date of birth(s)
 - Photo(s), video(s), or digital recording(s) recognizably depicting their face(s) that can be stored and transferred electronically;
- The license tag number or VIN, state of issue, make, model, and color of the vehicle used to deliver the property; and
- For Coils, burnt copper wire, catalytic converters, or Burial Objects, a copy of the required documentation, reports, licenses, certificates, and/or registrations.

[back to top](#)

Vehicles

For a vehicle, a Recycler shall:

- If § 40-3-36 is applicable, purchase the vehicle in compliance with such;
- If § 40-3-36 is not applicable, follow the Recordkeeping and Reporting provisions.

[back to top](#)

Coils

A Recycler may only purchase a Coil from:

- A contractor licensed pursuant to Ch. 14 of Title 43 or by another state whose valid license the Recycler copies at the time of the purchase transaction or has on file;
- A Seller with verifiable documentation, such as a receipt or work order, indicating that such coil is the result of a replacement performed by a licensed contractor; or
- A Recycler who provides proof of registration pursuant to § 10-1-359.1 and a signed statement that the required information involving the coil was provided to the Georgia Bureau of Investigation pursuant to § 10-1-359.5.

[back to top](#)

Burnt Copper Wire

A Recycler may only purchase copper wire which appears to have been exposed to heat, charred, or burned in an attempt to remove insulation surrounding it from:

- A contractor licensed pursuant to Ch. 14 of Title 43 or by another state whose valid license the Recycler copies at the time of the purchase transaction or has on file;
- A Seller with a police report showing their real property was involved in a fire; or
- A Recycler who provides proof of registration pursuant to § 10-1-359.1 and a signed statement that the required information involving the wire was provided to the Georgia Bureau of Investigation pursuant to § 10-1-359.5.

[back to top](#)

Catalytic Converters

A Recycler may only purchase a catalytic converter than is attached to a vehicle or is purchased from:

- A used motor vehicle dealer or used motor vehicle parts dealer licensed pursuant to Ch. 47 of Title 43 or by any other state whose valid license the Recycler copies at the time of the purchase transaction or has on file;
- A new motor vehicle dealer, motor vehicle repairer, or manufacturer or distributor of catalytic converters whose valid business license the Recycler copies at the time of the purchase transaction or has on file;
- A seller with verifiable documentation, such as a receipt or work order, indicating the catalytic converter is the result of a replacement performed by a used motor vehicle dealer, new motor vehicle dealer, or motor vehicle repairer, noting the make, model, and year of the vehicle in which it was replaced, as well as a copy of the vehicle's title or registration showing ownership or interest in it;
- A Recycler who provides proof of registration pursuant to § 10-1-359.1 and a signed statement that the required information involving the catalytic converter was provided to the Georgia Bureau of Investigation pursuant to § 10-1-359.5

[back to top](#)

Burial Objects

A Recycler may only purchase a Burial Object from:

- A funeral director licensed pursuant to Ch. 18 of Title 43 or by another state whose valid license the Recycler copies at the time of the purchase transaction or has on file;
- A cemetery owner registered pursuant to § 10-14-4 or with another state whose valid registration the Recycler copies at the time of the purchase transaction or has on file;
- A manufacturer or distributor of Burial Objects whose valid business license the Recycler copies at the time of the purchase transaction or has on file;
- A Seller with verifiable documentation, such as a receipt from or contract with a licensed funeral director, registered cemetery owner, or manufacturer or distributor of burial objects, evidencing the Seller is the rightful owner; or
- A Recycler who provides proof of registration pursuant to § 10-1-359.1 and a signed statement that the required information involving the Burial Object was provided to the Georgia Bureau of Investigation pursuant to § 10-1-359.5.

[back to top](#)

Retention

A Recycler shall retain records for not less than 2 years from the transaction date.

[back to top](#)

Inspection

During a Recycler's usual and customary business hours a law enforcement officer may, after properly identifying themselves as such, inspect any and all Regulated Metal and transaction records in the Recycler's possession.

[back to top](#)

Reporting

Effective July 1, 2015, Recyclers must provide record information, **except for the amount of consideration given**, electronically to the Georgia Bureau of Investigation or its designee. A Recycler who maintains a copy with the Bureau or its designee of the statements each seller must sign and swear to may provide a copy of the individual seller's signature instead of the actual statements, provided the statements are retained and are available for inspection.

The Bureau or its designee shall establish and maintain a database of reported information. Such information shall be considered a trade secret exempt from disclosure under Art. 4, Ch. 18, Title 50; this shall not relieve the Recycler of the obligation to report such to the Bureau or its designee. The database shall be accessible and searchable by:

- All law enforcement agencies in the state; and
- Employees of electric suppliers (§ 46-3-3) and of telecommunications companies (§ 46-5-162), provided that such employees have been certified by the Georgia Peace Officers Standards and Training Council as having successfully completed the course of training required by Ch. 8 of Title 35.

The Bureau shall promulgate rules and regulations and establish procedures necessary for this section and ensure compliance with applicable federal and state laws, including:

- The time, manner, and method of the transmittal of the information;
- The manner and method by which employees of electric suppliers and telecommunications companies may access and search the database; and
- The specific information the employees of electric suppliers and telecommunications companies may access and search within the database.

[back to top](#)

Payment Restrictions

No cash payments for Regulated Metal. A Recycler shall only pay for Regulated Metal by check, electronic funds transfer, or voucher, payable only to the Seller. A Recycler may not cash or redeem checks or electronic transfers or provide a redemption or cashing mechanism on site.

Vouchers may be provided to Sellers at the transaction time or mailed to the address indicated on the Seller's personal ID card. Recyclers may not redeem a voucher presented at the transaction time for 3 days from the transaction date. Vouchers may only be redeemed for cash by the Seller or their heirs or legal representative. Vouchers expire 6 months after the transaction date. A voucher must include the following:

- Date of Purchase;
- Seller's name;
- Amount paid for the Regulated Metal;
- Whether the voucher was mailed or presented at the time of purchase;
- The first date the voucher may be redeemed;
- The date the voucher expires.

Transactions between business entities are exempt from these payment restrictions.

[back to top](#)

Hold

15 calendar day hold after receipt of a written hold notice from a law enforcement officer with reasonable cause to believe Regulated Metal in the possession of the Recycler was stolen. Notice must specifically identify held items and inform Recycler of the Hold provision information. An officer can release the hold early or extend the hold for 30 days from the receipt of a written extended hold notice. Once the Hold expires a Recycler may dispose of the equipment unless otherwise ordered by a court of competent jurisdiction.

[back to top](#)

Hours of Operation

A Recycler may not purchase or sell Regulated Metal between 7 PM and 7 AM.

[back to top](#)

Registration

A Recycler must register every year with the sheriff of each county where they maintain a place of business. An individual must register with the sheriff where they reside, or if a non-resident, the county where they intend to primarily engage as a recycler. Registration information will be entered into a statewide electronic data base established in coordination with the Secretary of State and accessible by all Georgia law enforcement.

[back to top](#)

Contested Ownership

If a Recycler contests an ownership claim for Regulated Metal the other party may bring action in the superior or state court of the Recycler's county, provided a timely theft report had been made to the proper authorities. The petition must include a description of how the other party identified the Regulated Metal.

[back to top](#)

Penalties

Any person who purchases or sells Regulated Metals in violation of statutes (except as provided for unregistered Recyclers), or makes a false statement in executing a statement required by the Recordkeeping provision is guilty of:

- 1st offense: misdemeanor;
- 2nd offense: misdemeanor of a high and aggravated nature;
- 3rd or subsequent: felony subject to 1 to 10 years imprisonment.

Such a person is also liable in a civil action to any victims of a crime involving such for the full value of the property, any repairs and related expenses incurred as a result of such crime, litigation expenses, and reasonable attorneys' fees.

Any person who attempts to use the database for any purpose other than the investigation of an alleged crime or conspires to do so shall be guilty of a felony punishable by:

- 1st conviction: 1 to 5 years imprisonment and/or up to a \$5,000 fine;
- 2nd or subsequent: 5 to 10 years imprisonment and/or up to a \$40,000 fine.

Failure to register as a Recycler is a misdemeanor of a high and aggravated nature.

If a lawful owner recovers stolen Regulated Metal from a Recycler in compliance with the law and the Seller is convicted of theft by taking, theft by conversion, a violation of this article, theft by receiving stolen property, or criminal damage to property in the first degree, the court shall order the defendant make full restitution, including costs, to the Recycler or owner as appropriate.

It is unlawful to give a false or altered personal ID card, vehicle license tag number, or VIN to a Recycler as part of a purchase transaction.

Property used or intended to directly or indirectly facilitate one of the following crimes, and any weapon possessed, used, or available for use in such, is declared contraband and subject to forfeiture as set forth in § 16-13-49:

- Theft by taking (§ 16-8-2), theft by conversion (§ 16-8-4), or theft by receiving (§ 16-8-7) of Regulated Metal Property;
- Criminal damage to property in the first degree in violation of § 16-7-22.(a)(2)
- A criminal violation of this article.

[back to top](#)

Preemption

Supersedes and preempts all Regulated Metal rules, regulations, codes, ordinances, and other laws by a local governmental agency except those affecting the land use and zoning of Recyclers or related to occupational taxes, occupational tax certificates, or regulatory fees.

[back to top](#)

References and Recent Amendments

[O.C.G.A.](#) Title 10, Chapter 1, Article 14. Secondary Metals Recyclers; § 10-1-350 to § 10-1-359.5

[2015 Georgia HB 461](#), effective July 1, 2015

[back to top](#)

HAWAII

Haw. Rev. Stat. Title 25, Ch. 445, Part X. Scrap Dealers
§ 445-231 to § 445-235

§ 708-835.7 Theft of Copper

§ 708-835.8 Theft of Beer Keg

§ 708-835.9 Theft of Urn

Hawaii Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [License](#)
- [Recordkeeping](#)
- [Copper/Beer Kegs / Urns Add. Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Payment Restriction](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap" means any secondhand or used metal except Used Motor Vehicle Parts provided for in [Chapter 289](#), Used Motor Vehicle Parts and Accessories.

"Beer Keg" means a metal container used to hold five gallons or more of liquid that is stamped, engraved, stenciled, or otherwise marked with the name of a brewery manufacturer. Excludes deposit beverage containers.

"Copper" means copper in all different forms, including tubing, sheets (includes plates), gutters, down spouts, bars, bare wire or cable, insulated wire or cable, and aluminum/copper coil used in air conditioning and refrigeration.

"Urn" means a container that is or has been used to hold human ashes.

"Used Motor Vehicle Part or Accessory" means a motor vehicle part or motor vehicle accessory which has been the subject of prior sale at retail, either individually or attached to a motor vehicle as a component part or accessory thereof.

"Scrap Dealer" means any person engaged in the business of buying, selling, or dealing in scrap, or any person operating, carrying on, conducting, or maintaining a scrap yard. "Scrap yard" means any yard, plot, space, enclosure, building, or any other place where scrap is collected, stored, gathered together, and kept.

[back to top](#)

Exemptions

Public Utilities are exempt from the Recordkeeping and Copper and Beer Kegs Additional Recordkeeping provisions.

[back to top](#)

License

Any Scrap Dealer shall be licensed with the Treasurer. The annual license fee shall be \$10. A license shall designate the business location and the licensee's name, address, general excise tax license number, and any other identifying information required.

Any person licensed under [§ 289](#) (Used Motor Vehicle Parts) or [§ 445-171](#) (Secondhand Dealers) need not pay an additional licensing fee, but must obtain a Scrap Dealer license and follow the Scrap Dealer provisions when acting as a Scrap Dealer.

[back to top](#)

Recordkeeping

A Scrap Dealer purchasing Scrap within Hawaii shall obtain a signed statement from the Seller with the following:

- Statement that the Seller has the lawful right to sell and dispose of the Scrap;
- Seller's name, business or residence address, and occupation;
- A description, including serial numbers and other identifying marks, when practical;
- The amount the Seller received;
- The Date, Time, and Place of the sale;
- The license number of any vehicle used to deliver the Scrap.

The Seller must also present a valid federal or state issued photo ID card so that the Scrap Dealer can verify their identity, but the ID card information does not need to be recorded unless the Scrap includes Copper, Beer Kegs, or Urns.

[back to top](#)

Copper, Beer Kegs, or Urns Additional Recordkeeping

For purchases of Copper, Beer Kegs, or Urns, in whole or in part, a Scrap Dealer must also obtain the following:

- Either a copy of the Seller's receipt for acquiring the item or a notarized declaration from the Seller. The receipt or notarized declaration must include the following:
 - The exact item offered for sale;
 - Who issued the receipt, or for a notarized declaration, who sold or otherwise transferred the item to the Seller;
 - The date of sale of the item (prior to being offered to the Scrap Dealer); and
 - The price, if any, when obtained by the Seller;
- A photograph of the copper, beer keg, or urn;
- A photograph of the Seller;
- A copy of the Seller's valid federal or state issued photo ID card or license.

[back to top](#)

Retention

A Scrap Dealer shall retain records at their place of business for 2 years after the purchase.

[back to top](#)

Inspection

Records may be examined at any time by the Treasurer, the chief of police, the Attorney General, the prosecuting attorney, or their designees.

[back to top](#)

Reporting

For Copper, Beer Kegs, or Urns, offered for sale in whole or in part, if the Seller does not provide a receipt or notarized declaration the Scrap Dealer shall not purchase the item and shall report the attempted sale to the police.

[back to top](#)

Payment Restriction

No cash payments for Copper. Payment for Copper must be by check payable to the Seller, mailed to the address on the Seller's valid photo ID or picked up personally by the Seller at the Scrap Dealer's place of business.

[back to top](#)

Penalties

Persons violating the Scrap Dealer provisions or who falsify a statement required by the Recordkeeping provisions shall be guilty of a misdemeanor and sentenced in accordance with Chapter 706, but with a minimum penalty of:

- 1st offense: \$1,000 fine;
- 2nd offense: \$3,000 fine;
- 3rd or subsequent: \$5,000 fine and 6 months suspension of the Scrap Dealer's license. If the offense occurs within a 5 year period of two prior offenses, the Scrap Dealer's license shall be revoked.

Under [§ 708-835.7 Theft of copper](#), the theft of 1 lb. or more of copper, not including U.S. legal tender, is a Class C Felony.

Under [§ 708-835.8 Theft of beer keg](#), the theft of a beer keg is a misdemeanor.

Under [§ 708-835.9 Theft of Urn](#), a person commits the offense of theft of urn if they obtain an urn through any means described in § 708-830 Theft, or violate the additional recordkeeping and reporting requirements of § 445-233. Theft of urn is a Class C Felony.

[back to top](#)

References and Recent Amendments

Statutes

- [Haw. Rev. Stat. Tit. 25, Ch. 445, Part X](#). Scrap Dealers; § 445-231 to § 445-235
- [§ 708-835.7](#) Theft of Copper
- [§ 708-835.8](#) Theft of Beer Keg
- [§ 708-835.9](#) Theft of Urn

Recent Amendments

- [2016 Hawaii HB 1578](#) (effective 07/01/16)

[back to top](#)

IDAHO

Idaho Code Ann. Title 54, Chapter 27
Scrap Dealers
§ 54-2701 to § 54-2708

Idaho Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping - Nonferrous and Stainless](#)
- [Recordkeeping - Commercial Accounts](#)
- [Payment Restrictions - Commercial Accounts](#)
- [Burned Metallic Wire](#)
- [Beer Kegs](#)
- [Commercial Property](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Tag and Hold](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Nonferrous Metal Property" means metal property for which the value is derived from the content of copper, brass, aluminum, bronze, lead, zinc, nickel, gold, silver, platinum and their alloys. The term includes stainless steel beer kegs, but does not include aluminum beverage containers, used beverage containers or similar beverage containers.

Stainless Steel Metal Property is referenced in the Recordkeeping provision but is not defined in the law.

Burned Metallic Wire, as used in this summary, refers to metallic wire that was burned in whole or in part to remove insulation, as regulated by § 54-2703 of the law.

"Commercial Metal Property" means property sold by a Commercial Enterprise consisting of:

- Access covers;
- Street light poles and fixtures;
- Road and bridge guardrails;
- Highway or street signs;
- Water meter covers;
- Traffic directional and control signs;
- Traffic light signals;
- Any metal property marked with the name of a municipality, governmental entity, or a Commercial Enterprise, included but not limited to a telephone, cable, electric, water, natural gas, or other utility, or railroad materials;
- Copper or aluminum wiring with associated clamps and connectors;
- Aluminum or stainless steel fence panels;
- Aluminum decking, bleachers, or risers;
- Historical markers;

- Statue plaques;
- Grave markers and funeral vases; or
- Agricultural irrigation equipment not limited to wheels, sprinkler heads, and pipes; or stainless steel designed to be used in agricultural or commercial businesses.

"Commercial Enterprise" means a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity.

"Scrap Metal Business" means a Scrap Metal Supplier, Scrap Metal Recycling Center, or Scrap Metal Processor that is a Commercial Enterprise that purchases, receives, and processes Nonferrous Metal Property, Stainless Steel, or Commercial Metal Property.

"Scrap Metal Processor" means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and that maintains a hydraulic bailer, shearing device, crusher or shredding device for recycling.

"Scrap Metal Recycling Center" means a person with a current business license that is engaged in the business of purchasing or receiving Nonferrous Metal Property for the purpose of aggregation and sale to another Scrap Metal Business and that maintains a fixed place of business within the state.

"Scrap Metal Supplier" means a person that is engaged in the business of purchasing or receiving Nonferrous Metal Property for the purpose of aggregation and sale to a Scrap Metal Recycling Center or Scrap Metal Processor and that does not maintain a fixed business location in the state.

"Commercial Account" means a relationship between a Scrap Metal Business and a Commercial Enterprise that is ongoing and properly documented under this chapter.

"Transaction" means a pledge, or the purchase of, or the trade of any item of Nonferrous Metal by a Scrap Metal Business from a member of the general public. "Transaction" does not include donations or the purchase or receipt of Nonferrous Metal from a Commercial Enterprise, another Scrap Metal Business, or a duly authorized employee or agent of such.

[back to top](#)

Exemptions

The law exempts Transactions conducted by the following:

- Motor vehicle dealers that do not meet the definition of a Scrap Metal Business;
- Persons in the business of operating an automotive repair facility that do not meet the definition of a Scrap Metal Business;
- Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers, except beer kegs;
- Transactions of a value of less than \$20;

- Entities or individuals who do not receive compensation for the metal property; and
- Authorized insurers as defined in § 41-110(1).

[back to top](#)

Recordkeeping - Nonferrous and Stainless

A Scrap Metal Business shall record the following information in English, on a standardized or electronic form, for any Transaction (see definition) involving Nonferrous Metal Property or stainless steel metal property:

- The Seller's Signature;
- The Date and location of the transaction;
- The value of the transaction;
- The name of the employee representing the Scrap Metal Business in the transaction;
- The Seller's name and street address;
- A copy of the Seller's current U.S. or Idaho government-issued photo ID;
- The license plate number of the Seller's vehicle;
- A declaration signed by the Seller, with the date and time noted by the Seller, and witnessed and signed by an employee of the Scrap Metal Business, stating: "I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."
- For the first 3 Transactions with the same Seller within 1 year, a digital, photographic, or "videographic" image of the transaction to include the person, property, and delivery vehicle involved in the transaction.

[back to top](#)

Recordkeeping - Commercial Accounts

For a Commercial Account a Scrap Metal Business must maintain a permanent record with a Commercial Enterprise, including another Scrap Metal Business, with the following:

- The full name of the Commercial Enterprise or Commercial Account;
- The business address and telephone number of such;
- The full name of the primary contact or whoever is authorized to deliver Nonferrous Metal and stainless steel and Commercial Metal Property; and
- The full name of the primary contact who is authorized to permit a Scrap Metal Business to take possession of Nonferrous Metal and stainless steel and Commercial Metal Property at the business location of the Commercial Enterprise.

The Commercial Account record must also document every purchase or receipt of Nonferrous Metal, stainless steel, or Commercial Metal Property with the following:

- The time and date of the purchase or receipt;
- The value of the property;
- A description of the predominant types of property.

[back to top](#)

Payment Restrictions - Commercial Accounts

Payment to a Commercial Account for Nonferrous Metal, stainless steel, or Commercial Metal Property must be by cash, credit cards, electronic funds transfer, or check payable to the Commercial Enterprise.

Burned Metallic Wire

No purchase or receipt of metallic wire burned in whole or in part to remove insulation unless the Seller produces written proof that the wire was lawfully burned or lawfully recovered from a burned structure.

[back to top](#)

Beer Kegs

No purchase or receipt of beer kegs from anyone except a distributor or manufacturer of beer kegs or licensed brewery.

[back to top](#)

Commercial Property

No purchase or receipt of Commercial Metal Property unless the Seller:

- Has a Commercial Account with the Scrap Metal Business;
- Produces written documentation proving ownership of the property; or
- Produces written documentation that the Seller is authorized to sell on behalf of a Commercial Enterprise.

[back to top](#)

Retention

Records must be retained for 5 years.

[back to top](#)

Inspection

In lieu of reporting, a Scrap Metal Business and law enforcement may arrange a time for law enforcement to review records.

[back to top](#)

Reporting

Upon request by a state or local law enforcement officer, a Scrap Metal Business shall report records involving a specific individual, vehicle, or covered item of property, provided that such record still exists at the time of inquiry. The request shall specify a time of not less than 5 business days for the report. The report may be transmitted by fax, modem or similar, or delivered by computer disk subject to the requirements and approval of the chief of police or county's chief law enforcement officer.

[back to top](#)

Tag and Hold

Following verbal or written notification from a commissioned state or local law enforcement officer that an item of Nonferrous Metal, stainless steel, or Commercial Metal Property has been reported stolen, a Scrap Metal Business shall tag and hold the property for up to a 5 business day period as directed by the applicable law enforcement agency.

[back to top](#)

Penalties

It is a misdemeanor, or, for any person other than a Scrap Metal Business, a felony for a second violation within 5 years, for:

- A person to deliberately remove, alter, or obliterate any identifying marks engraved or etched on Nonferrous or Commercial Metal to deceive a Scrap Metal Business;

- A person to knowingly make, cause, or allow to be made any false entry or misstatement in a record required;
- A person to sign the required declaration knowing the Nonferrous Metal is stolen;
- A Scrap Metal Business to knowingly possess Commercial Metal Property that was not lawfully purchased or received as required;
- A Scrap Metal Business to engage in a series of transactions valued at less than \$20 with the same Seller at the same location within a 24 hour period to avoid requirements;
- Any person to intentionally violate the Commercial Property provision.

It is a felony to knowingly and intentionally take Nonferrous Metals:

- From an electrical substation without authorization of the utility; or
- From a utility or communications services provider and thereby cause damage to the facilities of such or interfere with their ability to provide service.

A public or private owner of metal property is not civilly liable to:

- A person injured during the theft or attempted theft of metal property, or
- A person for injuries caused by a dangerous condition created as a result of the theft or attempted theft of the owner's metal property when the owner did not know, and could not have reasonably known, of the dangerous condition.

[back to top](#)

References and Recent Amendments

[I.C. Title 54, Chapter 27](#) Scrap Dealers; § 54-2701 to § 54-2708

Recent Amendments

- [2013 Idaho HB 241](#) (effective July 1, 2013)
- [2014 Idaho HB 518](#) (effective July 1, 2014)
- [2014 Idaho SB 1258](#) (effective July 1, 2014)

[back to top](#)

ILLINOIS

Ill. Comp. Stat. Chapter 815, Act 325
Recyclable Metal Purchase Registration Law
815 ILCS 325/1 to 815 ILCS 325/9

Ill Comp. Stat. Chapter 720, Act 5, Art. 36; 720 ILCS 5/36-1.
Property subject to forfeiture
(ISRI note: subsection (a)(1) includes "Section 16-1 (theft if the theft is of precious metal or of scrap metal)")

Illinois Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Restricted Recyclable Metal - Addl. Recordkeeping](#)
- [Beer Kegs - Addl. Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Payment Restrictions](#)
- [Penalties](#)
- [Recyclable Metal Theft Task Force](#)
- [No Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Recyclable Metal" means any copper, brass, or aluminum, or any combination of those metals, purchased by a Dealer, irrespective of form or quantity. Excludes:

- Items designed to contain, or to be used in preparing, beverages or food for human consumption;
- Discarded items of non-commercial or household waste;
- Gold, silver, platinum, and other precious metals used in jewelry; or
- Vehicles, junk vehicles, vehicle cowl, or essential vehicle parts.

Restricted Recyclable Metal, as used in this summary, refers to the following material as listed in 815 ILCS 325/4.1:

- Materials that are clearly marked as property belonging to a business or someone else other than the Seller;
- Property associated with use by governments, utilities, or railroads including, but not limited to, guardrails, manhole covers, electric transmission and distribution equipment, including transformers, grounding straps, wires or poles, historical markers, street signs, traffic signs, sewer grates, or any rail, switch component, spike, angle bar, tie plate, or bolt of the type used in constructing railroad track;
- Cemetery plaques or ornaments; or
- Any catalytic converter not attached to a motor vehicle at the time of the transaction unless the seller is licensed as an automotive parts recycler or scrap processor.

Beer Kegs are subject to additional recordkeeping requirements but not defined.

Air conditioner evaporator coils or condensers and copper are subject to payment restrictions but are not defined.

"Recyclable Metal Dealer" means any individual, firm, corporation or partnership engaged in the business of purchasing and reselling Recyclable Metal, whether of a permanent or itinerant nature, including junk shops, junk yards, or junk stores. Excludes automotive parts recyclers, scrap processors, repairers and rebuilders licensed pursuant to [625 ILCS 5/5-301](#). Recyclable Metal Dealers shall not be engaged in the business of purchasing or reselling vehicles, junk vehicles, vehicle cowls, or essential vehicle parts.

[back to top](#)

Exemptions

The Recordkeeping and Payment Restrictions provisions do not apply to the following if the Seller provides a bill of sale or other written evidence of title at the time of purchase:

- Electrical contractors;
- Agencies or instrumentalities of the State of Illinois or of the United States;
- Units of local government, their agents or representatives, that have contracted with the Dealer in the disposal of the Seller's metal street signs;
- Common carriers;
- Purchases from persons, firms or corporations regularly engaged in the business of manufacturing recyclable metal, selling recyclable metal at retail or wholesale, or razing, demolishing, destroying or removing buildings;
- Purchases between Recyclable Metal Dealers; or
- Purchases from Sellers engaged in the generation, transmission or distribution of electric energy or engaged in telephone, telegraph and other communications.

[back to top](#)

Recordkeeping

A Dealer must electronically record the following for each purchase of Recyclable Metal:

- The name and address of the Dealer;
- The date and place of each purchase;
- The Seller's name and address, verified by a valid government-issued photo ID;
- A copy of the Seller's valid government-issued photo ID;
- The license number and state of issue of the delivery vehicle;
- A description of the metal, including the weight and whether it consists of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps, connectors, "other appurtenances" (accessories or forms), or a combination of such;
- Photo, video, or both, of the Seller and of the materials as presented on the scale;
- The Seller's signed and dated declaration that:
"I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

[back to top](#)

Restricted Recyclable Metal - Additional Recordkeeping

A Dealer may only purchase Restricted Recyclable Metal if the Dealer also records a copy of the Seller's written documentation reasonably demonstrating that the Seller is the owner or is authorized to sell on the owner's behalf.

[back to top](#)

Beer Kegs - Additional Recordkeeping

A Dealer only purchase a metal beer keg from the beer manufacturer whose identity is displayed on the beer keg or their authorized representative. Whether or not the indicia of ownership is obliterated, unreadable, or missing, the Dealer must also create a proof of ownership record with the following information, verified by the Seller's government-issued photo ID:

- The name, address, telephone number, and signature of the Seller or the Seller's authorized representative;
- The name and address of the buyer, or consignee if not sold;
- A description of the beer keg, including its capacity and any indicia of ownership or other distinguishing marks on the exterior surface;
- The date of the transaction.

[back to top](#)

Retention

Records must be retained for 3 years after the transaction date; except that:

- Photos need only be retained for 3 months;
- Video recordings need only be for 1 month; and
- A beer keg's proof of ownership record need only be retained for 1 year from the date of purchase or delivery of the keg, whichever is later.

[back to top](#)

Inspection

The electronic recordkeeping system must be available for inspection at any time by:

- Any law enforcement official; or
- The representatives of common carriers and persons, firms, corporations, or municipal corporations engaged in:
 - generation, transmission, or distribution of electric energy or
 - telephone, telegraph, or other communications.

[back to top](#)

Reporting

A Dealer who suspects property it possesses to be lost or stolen must immediately notify the local law enforcement agency with jurisdiction and report the Seller's information.

[back to top](#)

Payment Restrictions

\$100 cash threshold for

- Air conditioner evaporator coils or condensers; or
- Any copper, including copper tubing or wiring.

Payment for such materials with a value exceeding \$100 must be by check or money order, payable to the Seller, or to the Seller's company if sold by a business.

[back to top](#)

Penalties

Any Dealer or other person who knowingly fails to comply is guilty of the following, with each day constituting a separate offense:

- 1st offense: Class A misdemeanor;

- 2nd or subsequent: Class 4 felony.

The Illinois Attorney General or State's Attorney for the county where a Dealer is located may initiate an action in the Dealer's county circuit court to prevent the unlawful operation of a Dealer, or to restrain, correct, or abate a violation, or to prevent any illegal act or conduct by the Dealer.

Under [720 ILCS 5/36-1](#), Property subject to forfeiture, any vessel, vehicle, or aircraft used with the knowledge and consent of the owner in the commission of, or attempt to commit, theft of precious metal or of scrap metal may be seized and delivered to the county sheriff. Within 15 days the sheriff must give notice of seizure by certified mail to each person whose right, title or interest is of record in a state or federal agency, and notify the State's Attorney of the seizure.

[back to top](#)

Recyclable Metal Theft Task Force

The Recyclable Metal Theft Task Force, under the Office of the Secretary of State, will establish a collaborative effort to combat metal theft, assist in developing regional task forces, and consider and develop long term legislative and enforcement solutions. Each year the Task Force will review the effectiveness of its efforts in deterring and investigating the problem of metal theft and in assisting in prosecution, and report its findings and recommendations to the General Assembly and the Governor by October 31 of each year. The Task Force shall consist of:

- 2 members of the Illinois Senate;
- 2 members of the Illinois House;
- 1 member representing the Office of the Secretary of State;
- 2 members representing the Department of State Police;
- The following appointed by the chairperson of the Task Force as selected by the previously listed members:
 - 1 member representing municipalities;
 - 5 chiefs of police from various geographical areas;
 - 1 representative of a public utility headquartered in Illinois;
 - 1 representative of recyclable metal dealers in Illinois;
 - 1 representative of scrap metal suppliers in Illinois;
 - 1 representative of insurance companies offering homeowners insurance;
 - 1 representative of rural electric cooperatives in Illinois; and
 - 1 representative of a local exchange carrier in Illinois.

[back to top](#)

No Preemption

The law does not apply in municipalities with populations of at least 1 million.

The law does not apply to any municipality that provides for the registration of Recyclable Metal by a resolution, ordinance, or regulation that substantially complies with the law or any corresponding rule or regulation except the Penalty provisions. Such a municipality must receive a certificate of exemption from the State Police and keep it available for inspection in the office of the municipal clerk.

[back to top](#)

References and Recent Amendments

Statutes

- [Ill. Comp. Stat. Chapter 815, Act 325](#) Recyclable Metal Purchase Registration Law; 815 ILCS 325/1 to 815 ILCS 325/9
- [Seizure: Ill Comp. Stat. Chapter 720, Act 5, Art. 36](#); 720 ILCS 5/36-1. Property subject to forfeiture (ISRI note: subsection (a)(1) includes "Section 16-1 (theft if the theft is of precious metal or of scrap metal)")

Recent Amendments

- [2013 Illinois HB 2994](#)
- [2014 Illinois SB 3443](#)
- [2015 Illinois HB 330](#) (effective January 1, 2016)
- [2016 Illinois HB 3363](#) (effective January 1, 2017)

[back to top](#)

INDIANA

Ind. Code Title 25, Article 37.5
Dealers in Valuable Metals
§ 25-37.5-1-.01 to § 25-37.5-1-10
(as amended by 2019 Indiana SB 471)

Ind. Code Title 35, Article 43, Ch. 4, IC 35-43-4-2.
Theft

Indiana Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [HVAC - Additional Recordkeeping](#)
- [Catalytic Converter - Additional Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Metal Beer Kegs](#)
- [Hold](#)
- [State Police Responsibilities](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Please Note: Amendments by [2019 Indiana SB 471](#), effective July 1, 2019, are included and noted in this summary.

Materials Covered and Other Definitions (edited for clarity or conciseness)

"Valuable Metal" means any product made of metal that readily may be resold. The term includes metal bossies and small component motor vehicle parts. The term does not include a beverage can, used jewelry regulated under IC 24-4-13, or precious metal regulated under IC 24-4-19.

"Metal Bossie" means a metal 4 wheel cart used to transport or sell food products that are stored in crates, shells, or trays.

"Valuable Metal Dealer" means any entity engaged in the business of purchasing and reselling Valuable Metal either at a permanently established place of business or in connection with a business of an itinerant nature. The term does not include a person who purchases a vehicle and obtains title to the vehicle.

[back to top](#)

Exemptions

Exempts the following Sellers if the Seller provides the Dealer with a bill of sale or other written evidence of title to the Valuable Metal at the time of purchase:

- Manufacturers of Valuable Metals;
- Entities engaged in the business of selling Valuable Metals at retail or wholesale;
- Other Valuable Metal Dealers;
- Entities engaged in the generation, transmission or distribution of electric energy or in telephone, telegraph and other communications.

Exempts transactions between scrap metal processing facilities as defined in [IC 8-23-1-36](#).

The HVAC and Catalytic Converter - Additional Recordkeeping provisions do not apply to commercial transactions between 2 or more of the following:

- An entity licensed under IC 9-22-4 as an automotive salvage rebuilder; a disposal facility; or a used parts dealer;
- A Valuable Metal Dealer.
- An Automobile Scrapyard (as defined by [IC 9-13-2-8](#)).
- A Scrap Metal Processor (as defined by [IC 9-13-2-162](#)).

[back to top](#)

Recordkeeping

Every Dealer must record the following on forms provided by the State Police Department for purchases of Valuable Metal:

- The Dealer's name and address;
- The Date and Place of each purchase;
- The Seller(s)'s name, address, age, and driver's license or Social Security number;
- From a government-issued photo ID used to verify the Seller's identity:
 - The type, name of the issuing agency, and identification number; and
 - A copy of the ID, unless the Dealer has a copy on file already;
- License number from the vehicle used to deliver the Valuable Metal;
- The price paid;
- A description and weight of the Valuable Metal;
- The source of the Valuable Metal;
- A photograph of the Seller;
- A photograph of the Valuable Metal;
- The Seller's signature verifying that the record is accurate.

[back to top](#)

HVAC - Additional Recordkeeping

A Dealer may only purchase an air conditioner evaporator coil or condenser, in whole or in part, from a Seller who:

- Acquired the item in the performance of business as one of the following and provides reasonable documentation that they are:
 - An authorized agent of a heating, ventilation, or air conditioning contractor;
 - A person engaged in heating, ventilation, or air conditioning repair.
- Provides a bill of sale or other written documentation that shows the item lawfully came into the Seller's possession;

The Dealer must record a copy of the Seller's documentation in addition to the transaction record. Exempts purchases of window air conditioning units.

[back to top](#)

Catalytic Converter - Additional Recordkeeping

A Dealer may only purchase or attempt to purchase a catalytic converter, in whole or in part, that is not attached to a motor vehicle from a Seller that presents the Dealer with a:

- One of the following for the motor vehicle the catalytic converter was taken from:
 - Certificate of title;
 - Certificate of registration;
 - Certificate of authority under IC 9-22-5; or
 - Receipt from a transaction of repair; or
- An affidavit executed by a law enforcement officer attesting to the officer's reasonable belief that the item lawfully came into the Seller's possession.

The Dealer must record a copy of the Seller's documentation in addition to the transaction record. Exempts purchases from a used parts dealer or automotive repair company.

[back to top](#)

Retention

Records shall be retained for 2 years.

[back to top](#)

Inspection

Records and Valuable Metal subject to the Hold provision shall be made available for inspection by any law enforcement official at any time.

[back to top](#)

Metal Beer Kegs

A Dealer may not accept a metal beer keg if the keg is clearly marked as the property of a brewery manufacturer or the keg's identification markings have been made illegible.

[back to top](#)

Hold

5 working day hold "from the date of notification" on any Valuable Metal "requiring notification".

[back to top](#)

State Police Responsibilities

The State Police shall publish on the State Police web site:

- The Recordkeeping forms;
- A list describing Valuable Metal products that are particularly susceptible to theft;
- Statutes as well as such rules adopted by the Superintendent of the State Police as are necessary to administer and enforce the provisions and intent of the law.

[back to top](#)

Penalties

A Dealer or Seller who fails to comply commits a Class A infraction.

Under [IC 35-43-4-2](#). Theft, subsection (a)(2)(B), an offense is a level 5 felony if the property that is the subject of the theft is a Valuable Metal and:

- Relates to transportation safety;
- Relates to public safety; or

- Is taken from a hospital or other health care facility, telecommunications provider, public utility, or critical infrastructure facility (*SB 471 changes "key facility" to "critical infrastructure facility"*).

The value of the property is:

- The fair market value of the property at the time and place the offense was committed; or
- If the fair market value of the property cannot be satisfactorily determined, the cost to replace the property within a reasonable time after the offense was committed.

[back to top](#)

References and Recent Amendments

Statutes

- [Ind. Code Title 25, Article 37.5](#). Dealers in Valuable Metals; IC 25-37.5-1 to IC 25-37.5-1-10
- [Ind. Code Title 35, Article 43, Ch. 4, IC 35-43-4-2](#). Theft

Recent Amendments

- [2013 Indiana HB 1188](#) (effective January 1, 2014)
- [2013 Indiana HB 1441](#) (effective July 1, 2013)
- [2015 Indiana HB 1396](#) (minor amendment to definition of "disposal facility")
- [2019 Indiana SB 471](#) (effective July 1, 2019)

[back to top](#)

IOWA

Iowa Code Title 16, Chapter 714, § 714.27 Scrap metal transactions and reporting - penalties.

Iowa Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Payment Restrictions](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metal" means any metal suitable for reprocessing. "Scrap metal" does not include a motor vehicle, but does include a catalytic converter detached from a motor vehicle.

"Scrap Metal Dealer" means any person operating a business at a fixed or mobile location that is engaged in buying, selling, procuring, collecting, gathering, soliciting, or dealing in scrap metal, or operating, managing, or maintaining a scrap metal yard.

"Scrap Metal Yard" means any yard, plot, space, enclosure, building, mobile facility, or other place where scrap metal is collected, gathered together, stored, or kept for shipment, sale, or transfer.

[back to top](#)

Exemptions

Transactions are exempt if:

- The total sale price is \$50 or less, except transactions for catalytic converters, which are exempt if the total sale price is \$75 or less;
- A Scrap Metal Dealer is selling the Scrap Metal; or
- The Seller is known to the Dealer to be the officer, employee, or agent of an established commercial or industrial business, operating from a fixed location, that may be reasonably expected to produce scrap metal during business operations.

[back to top](#)

Recordkeeping

A Dealer shall not make an initial purchase of Scrap Metal without recording the Seller's name, address, and place of business; the Seller must also present a valid government-issued photo ID. For subsequent purchases a Dealer need only record the Seller's name and place of business if they retain the information from the initial transaction.

[back to top](#)

Retention

Records and information must be retained for at least 2 years.

[back to top](#)

Inspection

Records shall be provided upon request during normal business hours to a law enforcement agency or other officer or employee designated by a county or city to enforce the law, when said person has reasonable grounds to request such information as part of an investigation. The inspecting party must preserve the information confidentiality and not disclose it except as may be necessary in enforcement or prosecution of a criminal.

[back to top](#)

Payment Restrictions

Non-exempt scrap metal transactions must be paid by check or electronic transfer.

[back to top](#)

Penalties

A Seller who fails to provide the required information or a person who conducts a transaction by or on behalf of a Dealer who violates the law is subject to:

- 1st offense: \$100 civil penalty;
- 2nd offense within 2 years: \$500 civil penalty;
- 3rd or subsequent offense within 2 years: \$1,000 civil penalty.

[back to top](#)

Preemption

These provisions shall take precedence over and supersede any local ordinance adopted by a political subdivision that regulates scrap metal transactions, except a city ordinance in effect prior to January 1, 2012, in a city with a population exceeding 150,000 as shown by the 2010 federal census may continue to be enforced by the city that adopted it.

[back to top](#)

References and Recent Amendments

[Iowa Code Title 16, Ch. 714, § 714.27](#) - Scrap metal transactions and reporting - penalties.

[back to top](#)

KANSAS

Kan. Stat. Ann. Chapter 50, Article 6, Section 109 to 112c
Scrap Metal Theft Reduction Act
§ 50-6,109 to § 50-6,112c
(as amended by 2019 Kansas HB 2248
and 2020 Kansas HB 2137)

Kansas Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of June 16, 2020

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Junk Vehicles](#)
- [Restricted Items](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [No Purchase from Minors](#)
- [Hold](#)
- [Registration](#)
- [Denial, Suspension, or Revocation of Registration](#)
- [Penalties](#)
- [Attorney General Powers](#)
- [Preemption](#)
- [Sunset](#) (added by HB 2248)
- [References and Recent Amendments](#)

Please Note: Amendments by [2019 Kansas HB 2248](#), effective July 1, 2019, and [2020 Kansas HB 2137](#), effective July 1, 2020, are included in this summary. HB 2248 generally changes reporting database dates and related noncompliance dates to 07/01/20 and changes references from the AG to KBI. HB 2137 removes the requirement to record a photo of the seller's vehicle that was added by HB 2248.

Plastic Bulk Merchandise Container requirements are not included in this summary, but can be found in [K.S.A. Ch. 65, Article 34, Sections 28 and 29; § 65-3428 and §65-3429](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Regulated Scrap Metal" means any item, in any form, for which the purchase price was primarily based on the content of aluminum (does not include food or beverage containers), copper, brass, bronze, stainless steel, zinc, titanium, tungsten, nickel, platinum, palladium, rhodium, magnesium, lead, any other nonferrous metal, or any combination of such nonferrous metals.

"Bales of Regulated Metal" means Regulated Scrap Metal property processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a Scrap Metal Dealer consistent with industry standards.

"Nonferrous Metal" means a metal that does not contain iron or steel.

"Junk Vehicle" means a vehicle as defined in [K.S.A. 8-126](#) not requiring title as provided in K.S.A. Chapter 8, an aircraft, or a boat which is being sold for scrap value.

"Vehicle Part" means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit.

Restricted Items, as used in this summary, refers to items listed in K.S.A. 50-6,111.(d):

- Utility access cover;
- Street light poles or fixtures;
- Road or bridge guard rails;
- Highway or street sign;
- Water meter cover;
- Traffic directional or traffic control signs;
- Traffic light signals;
- Any metal marked with any form of the name or initials of a governmental entity;
- Property owned and marked by a telephone, cable, electric, water or other utility provider or any such wire or cable that has had the sheathing removed, making ownership identification impossible;
- Property owned and marked by a railroad;
- Funeral markers or vases;
- Historical markers;
- Bales of Regulated Metal;
- Beer kegs;
- Manhole covers;
- Fire hydrants or fire hydrant caps;
- Junk Vehicles with missing or altered vehicle identification numbers;
- Real estate signs;
- Bleachers or risers, in whole or in part;
- Twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge; and
- Burnt wire.

"Scrap Metal Dealer" (or Dealer as used in this summary) means any individual, firm, company, partnership, association, or corporation that operates a business that is engaged in the business of buying, trading or dealing in Regulated Scrap Metal for the purpose of sale for recycling.

KBI means the Kansas Bureau of Investigation.

[back to top](#)

Exemptions

The Recordkeeping provision does not apply to transactions in which the Seller is:

- A registered Scrap Metal Dealer;
- A vehicle dealer licensed under K.S.A. Chapter 8;
- A Scrap Metal Dealer or vehicle dealer registered or licensed in another state;
- Known to the purchasing Dealer to be a licensed business that operates out of a fixed business location and that can reasonably be expected to generate Regulated Scrap Metal; except that the Attorney General may determine by rules and regulations which of the requirements will apply to such businesses.

[back to top](#)

Recordkeeping (changes by HB 2248 italicized)

A Dealer shall maintain a register in which the Dealer can record the following information, or cross-reference to previously received information, for the purchase or receipt of any Regulated Scrap Metal, Junk Vehicle or Vehicle Part. The register may be kept in electronic format.

- The Time, Date, and Place of the transaction;
- The Seller's:
 - Name, address, sex, date of birth, and identifying number from the Seller's driver's license, military ID card, passport, or personal identification license.
 - *Effective July 1, 2020, includes the ID number from an official government document for a country other than the U.S.*
 - *(Expires effective July 1, 2020)* The Seller's legible fingerprint if an identification card or document from a country other than the U.S. is used;
 - A copy of the identification card or document;
 - *Effective July 1, 2020, a copy of the ID card is not required if the Dealer has a copy in their register from a prior transaction.*
- The license number, color, and style or make of any delivery motor vehicle;
- A general description of the predominant types of items made in accordance with the custom of the trade;
- The weight, quantity, or volume of the Regulated Scrap Metal purchased, made in accordance with the custom of the trade;
- For a Junk Vehicle or Vehicle Part, a description including the make, model, color, vehicle identification number and serial number if applicable;
- The price paid for, traded for or dealt for;
- The full name of the individual acting on the Dealer's behalf;
- The Seller's signed statement indicating from where the property was obtained and:
 - That each item is the Seller's personal property, is free of encumbrances and is not stolen; or
 - That the Seller is acting for the owner and has permission to sell each item, and the name and address of the owner of the property.
- Photographs of the item or lot of items being sold at the time of purchase or receipt.
 - *(HB 2248 added a requirement to photograph the vehicle in which the property is delivered, but it was removed by HB 2137 effective July 1, 2020).*

[back to top](#)

Junk Vehicles

For purchases of Junk Vehicles, a Dealer must inspect the vehicle and record the VIN. If the vehicle has been impounded by a governmentally operated vehicle impound facility or agency, the Dealer must obtain a bill of sale issued by that facility.

[back to top](#)

Restricted Items

For purchases of Restricted Items, a Dealer must obtain proof that the Seller is an employee, agent or person who is authorized to sell the item on behalf of the governmental entity; utility provider; railroad; cemetery; civic organization; manufacturing, industrial or other commercial vendor that generates or sells such items in the regular course of business; or Scrap Metal Dealer.

Retention

Records must be retained for 2 years.

[back to top](#)

Inspection

Records shall be open at all times to law enforcement officers. If records are maintained electronically, a Dealer shall provide a printout to officers upon request.

[back to top](#)

Reporting

(HB 2248 adds reporting period and requirement that KBI determine info required) Beginning July 1, 2020, every Dealer must forward the information required by the KBI to the database maintained by the KBI for each transaction within 72 hours after the transaction occurs. The KBI shall promulgate rules and regulations for what information and photos shall be entered and the manner for submitting the information.

On July 1, 2020, the AG must establish and maintain a transaction report database to provide information to law enforcement and for any other purpose deemed necessary by the AG to implement and enforce the Act. The database will then be maintained by the KBI.

Information maintained in, submitted to, or stored as part of the database by the KBI or by any entity contracting with the KBI may be provided to the AG and shall:

- Be confidential, only be used for investigatory, evidentiary, or analysis purposes related to criminal violations of city, state, or federal law, and shall only be released to law enforcement in response to an official investigation, to provide information to law enforcement, or for any other purpose deemed necessary by the AG; and
- Not be a public record or subject to the Kansas Open Records Act (subject to expiration on July 1, 2024 unless the legislature renews and reenacts the provision).

(added by HB 2248) A Dealer's contract with the contracting entity shall not:

- Require the Dealer to contract to release proprietary or confidential data, including customer information;
- Charge any fee as a condition of providing data, including a fee for electronic submission of information.

(added by HB 2248) A Dealer providing information to the database as required is not subject to civil liability for any claim arising from negligence or omission by the state or any contracting entity in the collection, storing, or release of information.

[back to top](#)

No Purchase from Minors

A Dealer may not purchase or receive Regulated Scrap Metal from a minor unless the minor is accompanied by a parent or guardian or the minor is a licensed Scrap Metal Dealer.

[back to top](#)

Hold

30 day hold, exclusive of weekends and holidays, on any Regulated Scrap Metal, Junk Vehicle or Vehicle Part upon the receipt of notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe the item has been stolen.

Registration

(HB 2248 delays enforcement of new fees until July 1, 2020 and changes fees) Scrap Metal Dealers must register each place of business with the Attorney General. Registrations are issued for 1 year, are subject to an application or renewal fee not more than \$500, as prescribed by the AG, for each particular place of business, and are not transferable. The registration must contain:

- One of the following:
 - The name and residence of the applicant, including all previous names and aliases;
 - If the applicant is a corporation, the name and address of each manager, officer or director thereof, and each stockholder owning in the aggregate more than 25% of the stock of such corporation;
 - If the applicant is a partnership or limited liability company, the name and addresses of each partner or member;
- The length of time that the applicant has resided within Kansas and a list of all residences outside of Kansas during the previous 10 years;
- The particular place of business for which a registration is desired, the name of the business, the address where the business is to be conducted, the hours of operation and the days of the week during which the applicant proposes to engage in business;
- The name of the owner of the premises upon which the place of business is located;
- The applicant must disclose any prior convictions within the past 10 years of: a violation of [K.S.A. Ch. 21, Art. 58: Crimes Involving Property](#); poisoning a domestic animal; perjury; compounding a crime; obstructing legal process or official duty; falsely reporting a crime; interference with law enforcement; interference with judicial process; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

A business licensed under [K.S.A. 8-2404](#) need not register unless it buys or recycles Regulated Scrap Metals that are not motor vehicle components.

The AG shall establish a system for the public to confirm Dealer registration certificates, which will include a listing of valid certificates and such other information collected pursuant to the Act as the AG determines is appropriate. Disclosure of any information through use of the system shall not be deemed to be an endorsement of any Dealer or determination of any facts, qualifications, information or reputation of any Dealer by the AG, the state, or any of their respective agents, officers, employees or assigns.

(HB 2248 delays enforcement until 07/01/20) Any person filing a registration may be subject to a criminal history records check and may be given a written notice that the check is required. The AG may require the applicant to be fingerprinted and submit such to the Kansas Bureau of Investigation and the FBI for a state and national check. If required, the fingerprints shall be used to identify the applicant, to determine if they have a record of criminal history in Kansas or another jurisdiction, and in the official determination of whether the registration will be accepted. Local and state law enforcement officers and agencies shall assist the AG in taking and processing

fingerprints. If the check is used to disqualify an applicant they shall be informed in writing of that decision.

[back to top](#)

Denial, Suspension, or Revocation of Registration

Registrations shall not be accepted for:

- A person who is not a citizen or legal permanent resident of the United States;
- A person under 18 years old whose parents or legal guardians have been convicted of a disqualifying crime while the parents or legal guardians were registered;
- A person who within the past 10 years has been pled guilty to or convicted of, or was released from incarceration, probation or parole for committing, attempting, or conspiring to commit a violation of [K.S.A. Ch. 21, Art. 58: Crimes Involving Property](#); poisoning a domestic animal; perjury; compounding a crime; obstructing legal process or official duty; falsely reporting a crime; interference with law enforcement; interference with judicial process; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States;
- A person who within the past 10 years:
 - Had their Dealer registration revoked;
 - Managed a facility for a Dealer whose registration was revoked;
 - Was an employee whose conduct contributed to such a revocation; or
 - Makes a materially false statement on their registration application;
- A partnership or limited liability company if any partners or members would be ineligible to receive a license;
- A corporation if any manager, officer, or director, or if any stockholder who owns 25% stock in aggregate, would be ineligible to receive a license;
- A person whose place of business is conducted by a manager or agent if such would be ineligible to receive a license;
- A person whose spouse has been convicted of a disqualifying crime while the spouse was registered.
- *(HB 2248 delays enforcement until 07/01/20)* A person who does not own the premises where the business is located unless the person has a written lease for at least 3/4 of the registration period.

Upon 5 days' notice, a Scrap Metal Dealer's registration may be suspended for up to 30 days for the following, or revoked for 3 or more during a 24 month period:

- The registrant is found to have violated the Act or any similar ordinance, resolution or rules;
- The employment or continued employment of a person the Dealer knows has been convicted of violating the Act or a similar law in a city, county, or another state within the past 24 months;
- Permitting criminal activity in or upon their place of business.

The AG may revoke a registration with 5 days' notice for the following:

- The registrant knowingly gave materially false information on their registration;

- The registrant has become ineligible to obtain a registration under the Act;
- Nonpayment of registration fees after receiving a written 30 days past due notice; or
- The nonpayment of any civil penalty after receiving written notice that such penalty is more than 30 days past due.

Any action shall be brought individually against a single registrant's site and not against any other scrap metal sites or locations registered by the same Scrap Metal Dealer. Any person aggrieved by a decision to suspend or revoke a registration may appeal such in accordance with rules and regulations promulgated by the AG to implement the Act.

[back to top](#)

Penalties

If any person willfully fails or refuses to file a statement or report required by the Act or obey any subpoena issued by the AG, the AG may apply to a district court and, after a hearing, the court may issue an order:

- Granting injunctive relief restraining the sale or advertisement of any services or merchandise by such persons;
- Vacating, annulling, or suspending a corporate charter of a corporation created by or under Kansas law, revoking or suspending the certificate of authority to do business in Kansas of a foreign corporation, or revoking or suspending any other licenses, permits, or certificates issued pursuant to law to the person which are used to further the allegedly unlawful practice; or
- Granting other relief as may be required until the person files the statement or report or obeys the subpoena.

Between July 1, 2017, and July 1, 2020, failure to comply with the following provisions may result in the assessment of a civil penalty by the AG of \$100 to \$5,000 for each violation.

- Recordkeeping requirements to record a copy of the Seller's ID;
- Recordkeeping requirements to photograph the items being sold;
- Inspection provision
- Junk Vehicles provision
- No Purchase from Minors provision;
- Restricted Items provision;
- Hold provision.

Beginning July 1, 2020, any Dealer who violates any provisions of the Act, in addition to any other penalty provided by law, may incur a civil penalty of \$100 to \$5,000 for each violation; the AG may also impose such penalty for any employee or agent of the Dealer or on any person or entity required to be registered as a Dealer. The penalty shall only be imposed upon the written order of the AG to the Dealer responsible for the violation, and must state the violation, the penalty to be imposed, and the right of the Dealer to appeal as provided in the Kansas Judicial Review Act.

The AG may bring a civil action to obtain a declaratory judgement that an act or practice violates the Act; enjoin or obtain a restraining order against any person who has, is, or is otherwise likely

to violate the Act; recover reasonable expenses and investigation fees; or impose any civil penalty authorized by the Act. In lieu of investigation or continuing an action or proceeding, the AG may accept a consent judgement for a violation of the Act. Such must be approved by the district court and an entry of judgment must be made. Once the approval is received, any breach of the conditions shall be treated as a violation of a court order. In any action brought by the AG, the court may, without requiring the AG's bond make orders or judgements necessary to prevent the use or employment of any practice declared to be a violation of the Act; issue a temporary restraining order or enjoin any person from violating the Act; award reasonable expenses and investigation fees, civil penalties and costs; and grant other appropriate relief.

The commission of any act or practice declared a violation of the Act shall render the violator liable to the state for a civil penalty of up to \$5,000 for each violation.

Any person who willfully violates the terms of any court order issued pursuant to the Act shall pay a civil penalty of up to \$10,000 per violation, in addition to other penalties imposed by the court, as the court deems necessary and proper. The district court issuing an order shall retain jurisdiction, and the AG acting in the name of the state may petition for recovery of civil penalties.

Any continuing act or practice declared to be a violation of the Act shall be deemed a separate violation for each day such act or practice exists.

Any person, whether or not a Kansas resident or citizen, who in person or through an agent engages in business as a Dealer submits to the jurisdiction of the Kansas courts for any cause of action arising from such business. Every administrative or civil action pursuant to the Act shall be brought in the Shawnee County district court or in any other district whose venue is authorized by law.

Under [K.S.A. 22-2902](#) - Preliminary Examination, at any examination at which the details of transaction records required by the Act are to be introduced as evidence, the records shall be admissible in the preliminary examination in the same manner and with the same force and effect as if the individuals who made the record, and the records custodian who keeps the record, had testified in person.

Under [K.S.A. 21-5804](#) - Intent to Deprive of Property, in a prosecution for theft, if the theft is of Regulated Scrap Metal either in whole or part, the failure to give information or the giving of false information to a Dealer, the transportation of the metal outside the county from where it was obtained or across state lines, or the alteration of the metal before any transaction with a Dealer shall be prima facie evidence of intent to permanently deprive the owner of the metal of the possession, use, or benefit thereof.

Under [K.S.A. 21-5813](#) - Criminal Damage to Property, it is aggravated criminal damage to property if the value or amount of damage exceeds \$5,000 and the damage was committed to obtain any Regulated Scrap Metal or Restricted Items (as listed in K.S.A. 50-6,111.(d)) upon any building, structure, residence, facility, site, place, property, vehicle, or any infrastructure thereof (statute

lists numerous specific examples, but ends with the statement above and has additional clarifiers to make it as encompassing as possible). Aggravated criminal damage to property is a severity level 6, non-person felony. The amount of damages may include the cost of repair or replacement, the reasonable cost of the loss of production, crops, and livestock, reasonable labor costs of any kind, reasonable material costs of any kind, and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. This also applies to court-ordered restitution under K.S.A. 21-6604 - Authorized Dispositions. Under K.S.A. 21-6804 - Sentencing Grid for Nondrug Crimes, the sentence for aggravated criminal damage to property when such person has a prior conviction for any nonperson felony shall be presumptive imprisonment; such shall not be considered a departure and shall not be subject to appeal.

[back to top](#)

Attorney General Powers

The AG is given jurisdiction and authority over the implementation, administration, and enforcement of the Act, including to employ agents to implement, administer, and enforce the Act; contract; expend funds; license and discipline; investigate; issue subpoenas; keep statistics; and conduct compliance education and outreach programs. The AG is authorized to adopt rules and regulations to implement the Act.

The AG will administer the scrap metal theft reduction fee fund. All fees, charges, or penalties collected under the Act shall be remitted to the state treasury to be credited to the fund. All expenditures shall be for the administration of duties, functions, and operating expenses incurred under the provisions of the Act. *The KBI will administer the scrap metal data repository fund, with similar restrictions on expenses. The AG may transfer any moneys from the reduction fee fund to the data repository fund, and must certify such transfers to the Director of Accounts and Reports and transmit a copy of the certifications to the Director of the Budget and the Director of Legislative Research (italicized text added by HB 2248).*

If, by the AG's own inquiries or as a result of complaints, the AG has reason to believe a person has, is, or is about to engage in a violation of the Act, the AG or any deputy or assistant AG may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence. If the subpoenaed matter is located outside the state the person may make it available within the state or pay the expenses for the AG or their designee to examine it where it is located.

The AG shall serve notice requiring a person to file a statement or report, or of a subpoena on a person, by certified mail to the last known place of business or residence or in the matter provided in the code of civil procedure. The AG may request an individual who refuses to comply to be ordered by the court to provide the testimony or matter. Except in prosecution for perjury, an individual who complies with a court order after asserting a privilege against self-incrimination to which they are entitled by law may not be subjected to a criminal proceeding or a civil penalty for the transaction the individual is required to testify on or produce relevant matter for.

By February 1, 2021, and annually thereafter, the AG must submit a report to the legislature on the implementation, administration, and enforcement of the provisions of the Scrap Metal Theft Reduction Act. *(HB 2248 changes date and requires annual reporting).*

[back to top](#)

Preemption

A municipality shall not enact or enforce any ordinance, resolution or regulation relating to the implementation, administration and enforcement of the provisions of the Scrap Metal Theft Reduction Act. Any such ordinance, resolution or regulation adopted prior to July 1, 2015 shall be null and void. No action shall be commenced or prosecuted against any individual for a violation of any such ordinance, resolution or regulation which was adopted before July 1, 2015, if the violation occurred on or after July 1, 2014.

[back to top](#)

Sunset (added by HB 2248)

The Scrap Metal Theft Reduction Act shall expire on July 1, 2023.

[back to top](#)

References and Recent Amendments

Statutes

- [Kan. Stat. Ann. Chapter 50, Article 6](#); Section 109 to 112c; Scrap Metal Theft Reduction Act. K.S.A. 50-6,109 to K.S.A. 50-6,112c

Recent Amendments

- [2015 Kansas HB 2408](#)
- [2017 Kansas SB 149](#)
- [2018 Kansas SB 261](#)
- [2019 Kansas HB 2248](#)
- [2020 Kansas HB 2137](#)

[back to top](#)

KENTUCKY

Ky. Rev. Stat. Ann. Title XL, Chapter 433

§ 433.890 to § 433.896

Purchases of Metal and Objects Containing Metal

§ 433.900 to § 433.906

Secondary Metals Recyclers

Kentucky Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping - Metal Objects](#)
- [Proof of Ownership - Restricted Metals](#)
- [No Purchase from Minors - Metal Objects](#)
- [Retention and Destruction](#)
- [Inspection- Metal Objects](#)
- [Reporting - Metal Objects](#)
- [Reporting - Restricted Metal](#)
- [Hold](#)
- [Payment Restrictions - Restricted Metals](#)
- [Stolen Metals Notifications](#)
- [Registration](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

Metal Objects, as used in this summary, refers to the following as listed in §433.890:

- Catalytic converters;
- Returnable metal beverage containers capable of holding more than 2 liters;
- Railroad rails; or
- Nonferrous Metal or an alloy thereof, or an object containing nonferrous or an alloy.

"Nonferrous Metals" means metal not containing significant quantities of iron, including but not limited to copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof.

"Ferrous Metals" means any metal containing significant quantities of iron or steel.

"Restricted metals" means any of the following metal items:

- Manhole covers;
- Electric light poles or other utility poles;
- Guardrails;
- Street signs, traffic signs, or traffic signals;
- Whole road tiles;
- Funeral markers or funeral vases;
- Railroad equipment, including but not limited to a tie plate, signal house, control box, switch plate, e-clip, or rail tie junction;
- Condensing or evaporating coils made from copper, aluminum, or aluminum-copper, including the tubing or rods from a heating or air conditioning unit that is not from a window air conditioning unit or automobile air conditioning unit;
- Stainless steel beer kegs;

- A catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a vehicle; or
- Storm drain covers.

Copper Wire or Coaxial Cable belonging to a utility or cable provider, such as communication, transmission, distribution, or service wire shall also be included as "Restricted Metal" for the Payment Restrictions and Reporting provisions, but not the Proof of Ownership - Restricted Metals provision.

"Secondary Metals Recycler" (referred to as Recycler in this summary) means:

- Any person engaged in the business of gathering or obtaining metals that have served their original economic purpose or performing the manufacturing process by which metals are converted into raw material products consisting of prepared grades and having an existing or potential monetary value;
- Any person who has facilities for performing the manufacturing process by which metals are converted into raw material products as described, other than by the exclusive use of hand tools; or
- Any recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, or collector of or dealer in articles found in ashes, garbage, or other refuse, whether a dealer, collector, or vendor operates an established place of business or an itinerant business.

"Secondary metals recycler" shall not include a municipal solid waste department or any entity which has been issued a municipal solid waste transporter license by the Kentucky Transportation Cabinet and which gathers or obtains ferrous or nonferrous metals in a vehicle registered in Kentucky to transport solid waste.

[back to top](#)

Exemptions

Metal Objects provisions shall not apply to the purchase, sale, or transfer of:

- A motor vehicle, aircraft, or other item that is licensed by the state or federal government pursuant to a legitimate transfer of title or issuance of a junk title;
- A firearm, firearm part, firearm accessory, ammunition, or ammunition component;
- A knife, knife parts, accessory or sheath for a knife, or knifemaking products;
- A nonreturnable used beverage container or food container;
- Jewelry, household goods containing metal, garden tools, and similar household items, except for a catalytic converter or returnable metal beverage container capable of holding more than 2 liters, which takes place at a flea market or yard sale;
- A single transaction involving a purchase price of \$10 or less, but more than 2 such transactions with the same Seller in a 7 day period shall be reportable transactions;
- Material disposed of as trash or refuse which is collected by a municipal waste department or by a licensed waste hauler and no payment is made to the person from whom the material is collected by the collector;
- Metal Objects from a person who has maintained a record pursuant to this section to a person who is to further recycle the metal or object containing the metal;

- Metal Objects under a written contract with an organization, corporation, or association registered with the Commonwealth as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school sponsored organization;
- Metal Objects, pursuant to a written contract, from a manufacturing, industrial or other commercial vendor that generates such in the ordinary course of business;
- An item purchased by, pawned to, or sold by a pawnbroker licensed pursuant to KRS Chapter 226, engaging in the business authorized by that chapter; or
- Any Ferrous Metal item, except for a catalytic converter, returnable metal beverage container of more than 2 liters, or railroad rails.

Nonreturnable used beverage containers are exempt from the Payment Restrictions and Proof of Ownership - Restricted Metal provisions.

Restricted Metal provisions shall not apply to the following:

- Purchases from a Recycler;
- Purchases from an organization, corporation, or association registered with the Commonwealth as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organization;
- Purchases pursuant to a written contract, from a manufacturing, industrial, or other commercial vendor that generates Restricted Metals in the ordinary course of business; or
- A motor vehicle, aircraft, or other item that is licensed by the state or federal government pursuant to a legitimate transfer of title or issuance of a junk title.

[back to top](#)

Recordkeeping - Metal Objects

A Recycler shall keep a record in hard copy, digital, or electronic format of transactions involving Metal Objects with the following:

- A copy of the Seller's valid government-issued identification containing the Seller's name, photograph, and signature. If the Recycler already has a copy on file, they may instead reference the number on the identification for future purchases.
- License number and state of the motor vehicle used to transport the Metal Objects;
- The Time and Date of the transaction;
- A description in the usage of the trade of the kind and weight of the railroad rail, nonferrous metal or an alloy thereof, or an object containing such nonferrous;
- The amount paid and the unit basis of the purchase (ounce, pound, etc.);
- If smelted, burned, or melted:
 - A signed certificate of ownership from the Seller stating that the Seller is the owner of the metal and entitled to sell it; or
 - A signed certificate from the owner stating that they are the owner and that the Seller is authorized to sell on their behalf.

[back to top](#)

Proof of Ownership - Restricted Metals

For purchases of Restricted Metals, a Recycler must also obtain one of the following:

- Reasonable proof that the Seller owns the property, such as a receipt or bill of Sale;
- Reasonable proof that the Seller is an employee, agent, or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer, or other person, business, or entity owning the property; and is authorized to sell the item. The Recycler may retain on file an official document on the letterhead of the owner indicating that the Seller is authorized to sell; such a letter must be dated within 365 days of the transaction.

[back to top](#)

No Purchase from Minors - Metal Objects

No purchase of Metal Objects from a person who is less than 18 years old.

[back to top](#)

Retention and Destruction

A Recycler must retain Metal Object transaction records for 2 years, after which time the material may be retained, destroyed in a manner that protects the identity of the owner of the property and seller of the property, or transferred to a law enforcement agency specified in the Reporting provision. If the Recycler ceases business they shall transfer all records to such a law enforcement agency. Law enforcement agencies receiving Metal Object transaction records shall follow the same retention and destruction guidelines.

[back to top](#)

Inspection- Metal Objects

During business hours a Recycler shall permit any peace officer to inspect the records, and if the officer deems it necessary to locate specific stolen property, any Metal Object received.

[back to top](#)

Reporting - Metal Objects

Upon written request of the sheriff or chief of police, as appropriate, a Recycler shall report Metal Object transaction records in person, in digital format, in writing, or by electronic means within 24 hours of the transaction to all of the following that apply:

- The sheriff of the county or counties where the purchase was made and where the business is located, as well as
- The police department or departments of the city, county, urban-county, charter county, consolidated local government, or unified local government where the purchase was made and where the business is located.

Metal Object Reports shall be sent until a written notice to cease sending the reports is received. A request may relate to:

- All records of purchases;
- Records of a specific class of metals or items purchased;
- Records of purchases during a specific period of time; or
- Records of a specific purchase or purchases.

[back to top](#)

Reporting - Restricted Metal

For Restricted Metal, A Recycler shall automatically make a report at the end of each business day in digital format, in writing, or by electronic means to any of the law enforcement agencies specified in the Reporting - Metal Objects provision that apply. The Restricted Metal report shall include the following disclosure:

"This information is for the designated recipient only and may contain privileged, proprietary, or otherwise private information. If you are not the intended recipient of this information, you are hereby notified that any use, distribution, copying, or disclosure of this communication is strictly prohibited. If you have received this information in error, please notify the sender and purge the communication immediately."

[back to top](#)

Hold

Recyclers must retain a Metal Object in its original form or a photograph or digital image of the property for 3 business days from the date of purchase. Upon giving notice to the Recycler, a peace officer with reasonable cause to believe a Metal Object may be stolen may seize the Metal Object as evidence or extend the hold period for an additional 30 days.

[back to top](#)

Payment Restrictions - Restricted Metals

No cash transactions for Restricted Metals. Payment shall be by check mailed by the Recycler no sooner than 1 day after the purchase transaction directly to the street address of the Seller, issued to and payable to the Seller. Payment shall not be mailed to a Post Office box.

[back to top](#)

Stolen Metals Notifications

Recyclers shall maintain at their place of business or have immediate access to an email address, facsimile, or other equipment on which notifications of stolen Restricted, Ferrous, or Nonferrous Metals may be expeditiously received from law enforcement officials or electronic metal theft notification systems. The equipment shall be operable at all times during the Recycler's customary business hours. A Recycler shall notify the Dept. of Professional Licensing of the Public Protection Cabinet within 2 days of any change of contact information used for stolen metals notifications.

[back to top](#)

Registration

A Recycler's certificate of registration shall be conspicuously displayed at the location listed on the application, or at each business location if the Recycler owns more than one. Recyclers shall submit to a name-based background check and obtain a certificate of registration for each Secondary Metals Recycling location from the Dept. of Professional Licensing of the Public Protection Cabinet. The application shall contain:

- The name of the Recycling business;
- The name or names of each applicant (includes officers if the Recycler is owned by a corporation or other entity)
- The address of each Recycling business owned by the applicant; and
- Contact information for the receipt of notifications of stolen metals.

Applicants must be at least 18 years old; corporations and other such entities must be organized and qualified to do business in Kentucky. Application and renewal fees shall equal the actual administrative processing costs. Applicants must also provide written authorization to the State Police Department to perform a name-based background check on each applicant and release the results to the Dept.; the State Police may charge the applicant a fee equal to actual costs for processing the request. The Dept. shall not register applicants who have been convicted of or entered a plea of guilty, nolo contendere, or an Alford plea, to a felony involving: theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, or obtaining property by false pretenses, any felony drug offense, or knowingly and intentionally violating the Kentucky laws relating to registration as a secondary metals recycler.

A list of registered Recyclers shall be public information and available upon written request to the Dept. The Dept. shall promulgate administrative regulations, but shall not be responsible for any disciplinary action against Recyclers seeking an application.

[back to top](#)

Penalties

A person is guilty of "failure to maintain a register of metals and objects containing metal" if they fail or refuse to abide by the Recordkeeping, Retention and Destruction, Inspection, or Reporting provisions as they apply to Metal Objects, and is subject to up to a \$100 fine and/or 30 days imprisonment in the county jail.

A person is guilty of "unlawful acts relating to the purchase or disposition of metals" if they violate any provisions that apply to Metal Objects other than the Recordkeeping provisions, and is subject to up to a \$100 fine and/or 30 days imprisonment in the county jail.

A person is guilty of "providing fraudulent identification for the sale of metals" and commits a Class A Misdemeanor if they provide any false, fraudulent, altered, or counterfeit information or documentation required by the Recordkeeping - Metal Objects provision.

[back to top](#)

References and Recent Amendments

Statutes

- [KRS Title XL, Ch. 433](#), § 433.890 to § 433.896 - Purchases of Metal and Objects Containing Metal
- [KRS Title XL, Ch. 433](#), § 433.900 to § 433.906 - Secondary Metals Recyclers

Recent Amendments

- [2017 Kentucky HB 443](#) (effective 04/11/17)

[back to top](#)

LOUISIANA

La. Rev. Stat. Ann. Title 37, § 37:1961 to § 37:1976
Louisiana Scrap Metal Recyclers Law

La. Rev. Stat. Ann. Title 14, § 14:69.
Illegal Possession of Stolen Things
(subsection E references signed statement of ownership).

Louisiana Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [License and Bond](#)
- [Recordkeeping](#)
- [Railroad Track Materials - Recordkeeping](#)
- [Specified Materials - Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Hours of Operation](#)
- [Purchase Restrictions](#)
- [Payment Restrictions](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metal" means metal materials which are purchased for resale to be recycled, including but not limited to ferrous materials, catalytic converters, auto hulks, copper, copper wire, copper alloy, bronze, zinc, aluminum other than in the form of cans, stainless steel, nickel alloys, or brass, whether in the form of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps or connectors, Railroad Track Materials, Water Utility Materials, and Used Building Components. The term shall not include precious metals, including but not limited to gold, silver, and platinum.

"Railroad Track Materials" means steel in the form of railroad tracks or in the form of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used in constructing railroads, or any combination of such materials.

"Used Building Component" means any object produced or shaped by human workmanship or tools that is an element of structural, architectural, archaeological, historical, ornamental, cultural, utilitarian, decorative, or sentimental significance or interest, which has been and may be used as an adjunct to or component or ornament of any building or structure, regardless of monetary worth, age, size, shape, or condition, that is immovable property, or fixtures or component parts of immovable property of any nature or kind.

"Water Utility Materials" includes but is not limited to water meters, valves, pipes, and fittings.

Specified Materials, as used in this summary, refers to the items listed in § 37:1970.C.(1):

- Infrastructure grade regulated material that has been burned to remove insulation, unless the Seller can produce written proof that the material was lawfully burned.
- Burnt wire.
- Regulated material where the manufacturer's make, model, serial or personal identification number, or other identifying marks engraved or etched upon the material have been conspicuously removed or altered.

- Regulated material marked with the name, initials, or otherwise identified as the property of an electrical company, a telephone company, a cable company, a water company or other utility company, or a governmental entity.
- A utility access cover.
- A water meter cover.
- A road or bridge guard rail.
- A highway or street sign.
- A traffic directional or control sign or signal.
- A metal beer keg that is clearly marked as the property of the beer manufacturer.
- A catalytic converter that is not part of an entire motor vehicle.

"Operator" means any person employed in responsible charge of operating all or any portion of a scrap metal recycling facility.

[back to top](#)

Exemptions

Does not apply to:

- Dealers in coins and currency, dealers in antiques, nor to gun and knife shows or other trade and hobby shows.
- Persons solely engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of motor vehicles and used parts of motor vehicles, excluding tires and rims, nor wreckers or dismantlers of motor vehicles who are licensed pursuant to the provisions of § 32:783 et seq.
- Private residential garage sales or yard sales taking place at a residential address.
- Any bona fide charity possessing a Section 501(c)(3) exemption.
- A company with a permit, registration, or other authorization from the Dept. of Environmental Quality for collection, transport, treatment, storage, or processing of materials to be recycled or reused or disposal of solid waste as defined in § 30:2153.
- Persons operating as pawnbrokers pursuant to § 37:1785.
- The purchase of firearms for disposal from a law enforcement agency.
- The purchase of materials from any manufacturing, industrial, or other commercial vendor that generates the materials as a byproduct or recyclable waste or sells such materials in the ordinary course of its business.

[back to top](#)

License and Bond

A Recycler shall apply for an occupational license, specifying the address of the business location. A Recycler shall also submit a \$2,500 bond in favor of the city or parish where the business is to be established as a surety for compliance with the Chapter. If the location of the business is changed after a license is issued, business shall not be conducted at the new location or under the license until the issuing official notes the change on the license and the superintendent of police of the city or sheriff of the parish is notified in writing.

[back to top](#)

Recordkeeping

An Operator shall maintain a written or electronic register of Scrap Metal purchases in the form prescribed by the Department of Public Safety and Corrections with the following:

- The name and residential or business address of the person required to keep the records and send reports;
- The Date and Place of the purchase;
- The name and address of each Seller;
- The distinctive number of each Seller's driver's license, passport, military ID, or ID issued by a governmental agency or the US Postal Service;
- The license number of the motor vehicle delivering the Scrap Metal;
- A full description of all such material purchased, including the weight of the material and whether it consists of bars, kegs, cable, ingots, rods, tubing wire, wire scraps, clamps, connectors, or other appurtenances or some combination thereof;
- The Seller's signed statement that the Seller paid for or owns the Scrap Metal;
- One of the following from the Seller, cross-referenced with the record:
 - A photo of the person selling or delivering Scrap Metal,
 - A thumbprint of the person selling or delivering Scrap Metal, or
 - A copy of one of the identifications listed above;
- A photograph of all Scrap Metal purchased, or multiple photos if necessary, cross-referenced with the record.
- For payments by check or loadable payment card, a copy of the Seller's current utility bill used to verify the Seller's address (see Payment Restrictions).

[back to top](#)

Railroad Track Materials - Additional Recordkeeping

For Railroad Track Materials, an Operator must additionally record the following and attempt to verify the authenticity of the statement provided:

- A full description including the weight and whether it consists of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used to construct railroads or other appurtenances or a combination thereof; and
- A signed statement of consent from the appropriate railroad company with:
 - An identification of the materials offered for sale,
 - The name of the company consenting to the sale, and
 - The name, employee number, and phone number of the signer.

[back to top](#)

Specified Materials - Additional Recordkeeping

For Specified Materials as listed in § 37:1970.C.(1), an Operator must additionally record a signed statement from the company or governmental entity owning the materials containing the following, and attempt to verify the authenticity of the statement:

- An identification of the materials offered for sale;
- The name of the company or government entity consenting to the sale;
- The name, employee number, and phone number of the signer.

[back to top](#)

Retention

Records shall be retained for 3 years at the place of business, except photos of Scrap Metal and a Seller's photos, thumbprints, or copy of a Seller's ID need only be retained for 1 year.

[back to top](#)

Inspection

Records and purchased articles must be at all times open for inspection by any peace officer or to the inspection of law enforcement officers of the office of state police, or the superintendent of police or sheriff of the parish or anyone designated by them of the city, town, or parish in which the operator does business. Photographs shall be made available to a law enforcement agency within 24 hours after a request.

[back to top](#)

Reporting

Every day before 12 PM, Operators must transmit an electronic report of the previous day's records to an electronic database accessible by law enforcement as well as to the chief of police of the city or sheriff of the county where they do business. Payments made by check must be reported separately in the daily reports.

The appropriate law enforcement official may, for an investigation of a crime relating to a particular Scrap Metal transaction, request the Operator to mail or fax them the personally identifiable information relating to the transaction within 24 hours of the request.

[back to top](#)

Hours of Operation

An Operator may only purchase Scrap Metal between 7AM and 7PM, except on Saturdays and during December the purchase hours are extended to between 7AM and 10 PM.

[back to top](#)

Purchase Restrictions

Operators shall not:

- Willfully or knowingly purchase Scrap Metal unpaid for or not owned by the Seller;
- Purchase Scrap Metal other than aluminum cans from a Seller under 18 years old. Lack of knowledge of age is not a defense to a violation;
- Purchase precious metals.

[back to top](#)

Payment Restrictions

No cash payments for copper or for aluminum copper air-conditioning coils. Payment for such must be made 5 business days after the transaction in the form of a check made payable to the name and address of the Seller or a loadable payment card and tendered in any of the following ways:

- By mail to the address recorded on the Seller's photo ID;
- In person at the place of business of the Operator; or
- By electronic transfer.

No cash payments in excess of \$300 for metal other than copper or aluminum-copper air conditioning coils. Sellers may not engage in multiple transactions within 24 hours totaling more

than \$300 to avoid payment restrictions. Payments in excess of \$300 shall be made either by check payable to the name and address of the Seller or a loadable payment card. Payment may be tendered at the time of the transaction.

For payments by check or loadable payment card, the Operator must verify the Seller's identification by a driver's license or similar and verify the Seller's address by a current utility bill. The Operator must retain a copy of the utility bill.

Payments made by check must be reported separately in the daily reports. Operators may not cash, offer to cash, or provide the means for exchanging for cash a check issued to the Seller at their place of business. This includes an automated teller machine.

[back to top](#)

Penalties

No person is exempt from prosecution under [§ 14:69](#). Illegal Possession of Stolen Things, for any act committed with fraudulent, willful, or criminal knowledge regardless of any other statutory presumption or exemption, including any signed statement of ownership executed by a purported owner of property.

Failure to obtain the Seller's signed statement of ownership is prima facie evidence of the fraudulent intent and guilty knowledge on the part of the Operator.

An Operator who obtains the required statement from a Seller of Railroad Track or Specified Materials shall be exonerated from any fraudulent, willful, or criminal knowledge.

A licensed Operator who violates, neglects, or refuses to comply with any provision shall be subject to a \$1,000 to \$10,000 fine and/or 30 to 60 days imprisonment. Additionally, for a:

- 2nd offense: occupational license suspended for 30 days;
- 3rd offense: occupational license revoked and banned from engaging as a Scrap Metal recycler in Louisiana.

An Operator convicted of selling stolen goods shall have their occupational license revoked. Upon motion in a court of competent jurisdiction, the Occupational License Tax Collector may rule a noncomplying Operator to show cause in 2 to 10 days, exclusive of holidays, for why the Operator's license should not be suspended or revoked.

A person operating as an unlicensed Operator shall be fined at least \$1,000 and/or imprisoned 30 to 60 days. Additionally, for a:

- 2nd offense: fined at least \$5,000 and/or imprisoned with or without hard labor for at most 2 years;
- 3rd or subsequent: fined at least \$10,000 and/or imprisoned with or without hard labor for at most 5 years,

[back to top](#)

Preemption

No governing authority of a political subdivision shall enact an ordinance in conflict.

[back to top](#)

References and Recent Amendments

Statutes

- Louisiana Scrap Metal Recyclers Law: [La. Rev. Stat. Ann.](#) Title 37, § 37:1961 to § 37:1976
- [La. Rev. Stat. Ann. Title 14, Sec. 69.](#) Illegal Possession of Stolen Things; § 14:69 (subsection E references signed statement of ownership).

Recent Amendments

- [2013 Louisiana SB 131](#) (effective August 1, 2013)
- [2014 Louisiana HB 469](#) (effective August 1, 2014)
- [2015 Louisiana SB 30](#)
- [2016 Louisiana HB 209](#) (effective June 9, 2016)
- [2017 Louisiana SB 220](#) (effective August 1, 2017)

[back to top](#)

MAINE

Me. Rev. Stat. Ann. Title 30-A, Ch. 183, Subch. 1-A
Scrap Metal Processors
30-A §3771 to 30-A §3778

Maine Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Restricted Scrap Metal - Additional Recordkeeping](#)
- [Purchase from Minors - Additional Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Payment Restrictions](#)
- [Hold](#)
- [Violations](#)
- [Report on State Licensing - Jan 30, 2014](#)
- [References and Recent Amendments](#)

Please Note: This summary covers Ch. 183 Subch. 1-A: Scrap Metal Processors; Ch. 183 also has rules for Junkyards and Automobile Graveyards (Subch. 1) and Junk Dealers (Subch. 4).

Materials Covered and Other Definitions

"Scrap Metal" means metal that can be recycled, including, but not limited to, bits and pieces of metal parts that may be combined together with bolts or soldering and can be recycled when worn or superfluous.

"Nonferrous Metal" means a metal that does not contain significant quantities of iron or steel. "Nonferrous Metal" includes the following metals and their alloys: copper; brass; aluminum; bronze; lead; zinc; nickel; and platinum.

"Beverage Container" means a can, bottle, jar or other container made of aluminum or metal that is sealed by a manufacturer and contained, at the time of sale, a beverage, as defined by Title 32, section 1862, but does not include a beer keg.

Restricted Scrap Metal, as used in this summary, refers to the items listed in 30-A § 3775:

- Scrap Metal marked with the initials of an electrical, telephone, cable or other public utility or a beer manufacturer;
- Utility access covers;
- Street light poles and fixtures;
- Road and bridge guard rails;
- Highway or street signs;
- Water meter covers;
- Metal beer kegs or keg pieces, including those made of stainless steel that are clearly marked as being the property of the beer manufacturer. Beer kegs or pieces may not be sold or purchased if the brewer's markings are obliterated or made illegible;
- Traffic directional and control signs;

- Traffic light signals;
- Any scrap metal marked with the name of a governmental entity;
- Property owned by a telephone, cable, electric, water or other utility or by a railroad and marked or otherwise identified as such;
- Unused and undamaged building construction or utility materials consisting of copper pipe, tubing or wiring or aluminum wire;
- Historical markers;
- Grave markers and vases; and
- Catalytic converters.

"Scrap Metal Processor" means a person that purchases Scrap Metal for resale or recycling.

"Seller" means any person that receives in a transaction monetary consideration from a Scrap Metal Processor in exchange for Nonferrous Metal, iron or steel, including stainless steel. **"Seller" does not include a person that, as part of a commercial enterprise or business, sells pursuant to a written contract or bill of sale Scrap Metal generated in a manufacturing or production process to a Scrap Metal Processor.**

[back to top](#)

Exemptions

A Processor is not required to maintain individual records for a series of Scrap Metal purchases made pursuant to a written contract or bill of sale. Scrap Metal provisions exempt transactions involving only beverage containers.

The Restricted Scrap Metal provision does not apply to transactions between Processors.

[back to top](#)

Recordkeeping

Processors must maintain an accurate and legible written or electronic record of each Scrap Metal purchase transaction with the following:

- Proof of the Seller's identification consisting of the following. Such proof of identification is subject to special Retention requirements, and may be maintained in a relational database for repeat Sellers and referenced in future transactions.
 - The Seller's name, address, gender, and identifying number from the Seller's government-issued photo identification;
 - A copy of the Seller's government-issued photo identification;
 - A photograph of the Seller if their identification's photo is faded, out of date, or otherwise indiscernible;
- The date of purchase;
- A general description of the predominant types, made in accordance with custom;
- A general description of the material's configuration and whether it is insulated;
- The weight, quantity, or volume, recorded in accordance with custom;
- The consideration paid;
- If payment is made by check, the Payee, check number, and name of the financial institution on which the check was drawn;

- The Seller's signed statement of ownership or authorization to sell. The Processor must provide a form conspicuously bearing a warning that making a false statement is a Class D crime under Title 17-A, section 453;
- The make, model, license plate number and state of issue of the delivery vehicle.

[back to top](#)

Restricted Scrap Metal - Additional Recordkeeping

A Seller may not sell and a Processor may not purchase Restricted Scrap Metal unless the Seller provides a signed statement for the transaction record at the time of sale that the property, to the best of the Seller's knowledge, is not stolen, and the Seller is the owner or otherwise authorized to sell. Does not apply to transactions between Processors.

[back to top](#)

Purchase from Minors - Additional Recordkeeping

A Processor may not purchase Scrap Metal from a minor unless the minor is accompanied by their parent or guardian, and the parent or guardian provides a written statement to the Processor that the transaction is taking place with their full knowledge and consent. Such a statement must be retained and made available for inspection for 3 years.

[back to top](#)

Retention

Records must be retained for 1 year. Proof of the Seller's identification must be kept in a secure, nonpublic location and may not be published, reproduced, distributed, or disclosed except as permitted by law.

A parent or guardian's written statement of consent to a purchase from a minor must be retained for at least 3 years.

[back to top](#)

Inspection

Records must be made available to any state or local law enforcement office.

[back to top](#)

Payment Restrictions

No cash payments to Sellers. Processors shall pay by check, credit card, or debit card.

[back to top](#)

Hold

A law enforcement officer with reasonable suspicion that Scrap Metal is stolen or related to criminal activity may issue a written order to a Processor specifying up to a 7 day hold period. Prior to the hold's expiration an officer may issue an additional written hold notice of up to 7 days.

[back to top](#)

Violations

A person who violates this Chapter commits a civil violation subject to:

- 1st offense: \$1,000 fine;
- 2nd offense: \$3,000 fine;
- 3rd or subsequent: \$4,500 fine and prohibited from acting as a Processor for 6 months.

[back to top](#)

Report on State Licensing - January 30, 2014

The Secretary of State shall study the need for state regulation of scrap metal dealers and review the advantages and disadvantages of a state license, permit, or registration process. The Secretary of State shall invite participation by stakeholders in the scrap metal industry, law enforcement, and other interested parties in order to identify the most effective system for statewide regulation and the enforcement of laws relating to scrap metal dealers and scrap metal thefts.

The Secretary of State shall submit the report and any recommended legislation to the Joint Standing Committee on Labor, Commerce, Research and Economic Development by January 30, 2014. The Committee is authorized to submit a bill in 2014 related to the report.

[back to top](#)

References and Recent Amendments

Statutes

- [Me. Rev. Stat. Ann. Title 30-A, Ch. 183, Subch. 1-A](#) Scrap Metal Processors; 30-A §3771 to 30-A §3778

Recent Amendments

- [2013 Maine HP 559](#) (effective October 9, 2013)
- [2013 Maine HP 560](#) (effective October 9, 2013)

[back to top](#)

MARYLAND

Md. Code, Business Regulation, Title 17, Subtitle 10 Junk Dealers and Scrap Metal Processors; § 17-1001 to § 17-1013

Maryland Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [License](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Historic Marker or Plaque - Reporting](#)
- [Purchase Restrictions - Listed Used Articles](#)
- [Catalytic Converters](#)
- [Hold](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Junk" or "Scrap Metal" includes the following, but does not include beverage or food cans:

- Nonferrous articles made wholly or substantially of: aluminum; babbitt metal; brass; bronze; light copper; heavy copper; lead; low carbon chrome; low carbon manganese; molybdenum; monel metal; pewter; nickel; stainless steel; tin; vanadium; zinc; platinum; gold; rhodium; or other nonferrous metals; and
- The following Used Articles, made of either ferrous or nonferrous metal:
 - catalytic converters;
 - metal bleachers;
 - hard-drawn copper;
 - metal beer kegs;
 - cemetery urns;
 - grave markers;
 - propane tanks;
 - cell tower batteries; and
 - any other used articles owned by a public utility including: guardrails; manhole covers; metal light poles; tree grates; water meters; and street signs.

"Historic Marker or Plaque" means a marker, plaque, or tablet commemorating a historic person or event, or identifying a historic place, structure, or object.

"Junk Dealer" or "Scrap Metal Processor" means a person who does business buying or selling junk or scrap metal, but does not include a dealer or pawnbroker licensed under Title 12 of the Business Regulation article.

Excepting the Licensing provision, the requirements for Dealers and Processors also apply to non-exempt Automotive Dismantler and Recyclers or Scrap Metal Processors licensed under Transportation Article, Title 15, Subtitle 5 if they conduct business as a licensed Dealer or

Processor or acquire vehicle parts or articles that qualify as, are listed as, or are made of metals listed as Scrap Metal.

"Primary Law Enforcement Unit" means the Department of State Police, a police department, or sheriff, as designated by a resolution of the county or municipal governing body in the county in which the license of the Junk Dealer or Scrap Metal Processor is held.

[back to top](#)

Exemptions

Does not apply to:

- A dealer or pawnbroker licensed under Title 12 of the Business Regulation article;
- A person doing business other than junk business or scrap metal business whenever the person:
 - Buys or transports Scrap Metal used in the operation of the business; or
 - Transports, for disposal or sale, Scrap Metal accumulated by the business to dispose of or sell;
- A vehicle that a common carrier uses in its business to transport Scrap Metal;

Except for the Historic Marker or Plaque provision, the law exempts antique dealers.

Except for the License provisions, the law exempts:

- An Automotive Dismantler and Recycler or Scrap Metal Processor licensed under Title 15, Subtitle 5 of the Transportation Article that only acquires whole vehicles for the purpose of dismantling, destroying, or scrapping them for the benefit of their parts or the materials in them,
- A person that buys scrap metal to use as raw material to produce 1,000,000 tons of steel or more in Maryland per calendar year.

The Recordkeeping and Reporting provisions do not apply to an item acquired from a:

- Licensed junk dealer or scrap metal processor;
- Unit of federal, State, or local government; or a
- Commercial enterprise with a valid business license that has a written contract with a Dealer or Processor who has provided to the Primary Law Enforcement Unit:
 - The name and business address of the commercial enterprise; and
 - The type of junk or scrap metal subject to the contract.

[back to top](#)

License

A person must have a license to act as a Junk Dealer or Scrap Metal Processor unless a nonresident Dealer or Processor buys Scrap Metal from a resident Dealer or Processor; or the nonresident Dealer or Processor transports that Scrap Metal. However, if a nonresident Dealer or Processor comes into Maryland in a vehicle, they may not transport any Scrap Metal bought in Maryland outside the state in that vehicle unless they possess a license.

An applicant shall certify their name and business address and pay:

- For a Dealer or Processor license, a \$10 fee if they are a Maryland resident;

- For an Agent license, a \$5 fee if they are a Maryland resident;
- \$100 for a Dealer, Processor, or Agent license if they are not a Maryland resident.

A State Junk License is not transferable. A nonresident Dealer or Processor may not keep a fixed place of business in Maryland. A person, other than a salaried employee of a Dealer or Processor licensee, must have an agent license when acting as an agent in Maryland. The local governing body in the county where a Processor is licensed shall designate the primary law enforcement unit to receive reports. If a municipal governing body designates the county police department or sheriff, the county may designate the State Police.

[back to top](#)

Recordkeeping

A Dealer or Processor must keep an accurate electronic record in English of each purchase of Junk or Scrap Metal containing the following:

- The Date and Time of purchase;
- A description of the Scrap Metal purchased, including the type and grade; and the weight of each type and grade if payment is based on weight;
- The amount paid or other consideration;
- The registration plate number, make, and model of any vehicle used;
- The Seller's name and address;
- The signature of the Seller and of the Dealer, Processor, or employee who accepted the Scrap Metal (not required for Reporting provision);
- For each individual from whom the Dealer or Processor acquires scrap metal, either:
 - The date of birth and driver's license number; or
 - Identification information from a valid Maryland-issued photo ID that provides a physical description, including the sex, race, any distinguishing features, and approximate age, height, and weight. Additionally, a copy of the Maryland-issued photo ID is required by the Reporting provision, but is not specified in the Recordkeeping provision.

The Historic Marker or Plaque report requires a description including the full text, any installation date, and the name of any installation sponsor.

[back to top](#)

Retention

Dealers and Processors must retain records for 1 year. Primary Law Enforcement Units must retain reports for 1 year.

[back to top](#)

Inspection

Records shall be open to inspection during business hours by State or local law enforcement personnel for an investigation of a specific crime involving Scrap Metal; said personnel may also request information from records pursuant to such an investigation. Written contracts with a commercial enterprise that are exempt from the Recordkeeping and Reporting provisions shall be open to inspection by a local law enforcement agency on the Dealer or Processor's business premises during business hours, but may not be open for public inspection without the consent of the Dealer or Processor.

Reporting

Certain information from the records shall be transmitted electronically, in a format acceptable to the receiving Primary Law Enforcement Unit, by the end of the first business day after the transaction. The report shall include all the required Recordkeeping information except that the report:

- For the amount paid, only requires an indication of whether the amount paid or other consideration exceeds \$500;
- Does not require the signature of the Seller and the Dealer, Processor, or employee;
- If a Maryland-issued photo ID is provided, requires a copy of the photo ID.

A Dealer or Processor may not be required to incur a substantial financial burden to comply with the Reporting requirements.

Submitted reports shall be kept confidential, are not public records, and are not subject to the State Government article, Title 10, Subtitle 6. The Primary Law Enforcement Unit may destroy its copy of a report 1 year after the report is received. The Unit may authorize a Dealer or Processor to extend the Reporting deadline by an extra day, hold written records instead of electronic, or submit reports by facsimile or mail.

[back to top](#)

Historic Marker or Plaque - Reporting

Dealers, Processors, or antique dealers who purchase a Historic Marker or Plaque shall report the following information within 3 business days after the date of purchase to the sheriff or other law enforcement official designated by the governing body of the county in which the business is located:

- The date and time of purchase;
- The name and address of the Seller;
- The license tag number of any vehicle used; and
- A description of the Historic Marker or Plaque, including the full text, any installation date, and the name of any installation sponsor.

The sheriff or other law enforcement official promptly shall notify the Maryland Historical Trust with a copy to the reporting business.

[back to top](#)

Purchase Restrictions - Listed Used Articles

Items listed as Used Articles under the definition of Junk or Scrap Metal may only be purchased from an individual who provides appropriate authorization from a relevant business or unit of federal, State, or local government specifically authorizing the individual to conduct the transaction.

[back to top](#)

Catalytic Converters

Sellers of catalytic converters must provide identification as:

- A licensed automotive dismantler and recycler or scrap metal processor; or
- An agent or employee of a licensed commercial enterprise.

[back to top](#)

Hold

Up to a 15 day hold upon receipt of a written hold notice from a State or local law enforcement agency with reasonable cause to believe that Scrap Metal in the possession of a Dealer or Processor is stolen. The written hold notice shall identify the items alleged stolen, inform the Dealer or Processor of the hold, and specify the time period. A hold may be released early by the law enforcement agency or by court order.

A Historic Marker or Plaque may not be sold or otherwise disposed of for a period of 30 days from the date of the required report to law enforcement.

[back to top](#)

Penalties

Local law enforcement personnel of the county where the place of business of the Dealer or Processor is located or where the Scrap Metal was purchased may enforce the law. Unless otherwise specified, a violation is a misdemeanor subject to:

- 1st offense: maximum \$500 fine;
- Subsequent offenses: maximum \$5,000 fine and/or maximum 1 year imprisonment.

A violation of the Historic Marker or Plaque provision is a misdemeanor subject to a maximum \$100 fine.

[back to top](#)

Preemption

State requirements preempt local rights to regulate and supersede any existing law that regulates the resale of Scrap Metal, excepting the power of a county or municipality to license Dealers and Processors.

[back to top](#)

References and Recent Amendments

Statutes

- [Md. Code](#), Business Regulation, Title 17, Subtitle 10. Junk Dealers and Scrap Metal Processors; § 17-1001 to § 17-1013

Recent Amendments

- [2017 Maryland HB 198](#) (effective 10/01/17)

[back to top](#)

MASSACHUSETTS

Junk Dealers

Mass. Gen. Laws Part I, Title XX, Ch. 140
§ 140-54 to § 140-56

Mass. Gen. Laws Part IV, Title I, Ch. 266, § 266-142
Record of purchases by dealers in scrap copper wire;
inspection; penalty

Massachusetts Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Please Note: General requirements for Junk Dealers are given in Chapter 140; requirements for purchases of copper line wire or scrap copper wire are given in Chapter 266.

Licensing

Cities and town may provide for licensing of suitable persons to be collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or second hand articles, may make rules and regulations relative to their business, and may provide for the supervision thereof. Societies, associations or corporations organized solely for religious or charitable purposes and their agents shall not be required to pay a fee for licenses. Exempts the purchase, sale or barter of books, prints, coins or postage stamps. There are special licensing rules for Automobile Graveyards.

Recordkeeping - Copper

Persons in the business of purchasing copper line wire or scrap copper wire shall record:

- A description of the items purchased;
- The quantity purchased;
- The purchase price;
- The Seller's name and address.

Inspection - Copper

Copper purchase records shall be open at all times to the inspection of the chief of police of the city or town, any other officer having similar duties, or any officer authorized by either of them, or a state police officer.

Penalties

Violators of the Recordkeeping - Copper provision shall be punished by a fine of not more than \$50.

Acting as a dealer in junk, old metals or second hand articles without a license is punishable by a \$20 fine.

References and Recent Amendments

Statutes

- Junk Dealers: [Mass. Gen. Laws Part I, Title XX, Ch. 140, § 140-54](#) to § 140-56
- [Mass. Gen. Laws Part IV, Title I, Ch. 266, Section 142](#): Record of purchases by dealers in scrap copper wire; inspection; penalty; § 266-142

MICHIGAN

MCL Ch. 445, Act 429 of 2008
Scrap Metal Regulatory Act
§ 445.421 to § 445.443

MCL Ch. 445, Act 350 of 1917
Secondhand Dealers and Junk Dealers
§ 445.401 to § 445.408

MCL Ch. 750, Act 328 of 1931, Ch. LII, § 750.356
Larceny; property; penalties; total value of property
stolen; enhanced sentence; prior convictions; "scrap
metal" defined.

(subsection (6) defines the value of property stolen as it
relates to scrap metal)

Michigan Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Seller Requirements and Restrictions](#)
- [Recordkeeping](#)
- [Recordkeeping - Industrial or Commercial Customers](#)
- [Retention](#)
- [Information Confidentiality](#)
- [Inspection](#)
- [Tag and Hold](#)
- [Purchase Restrictions - Section 9](#)
- [Restricted Property](#)
- Payment Restrictions
 - [Industrial or Commercial Customers](#)
 - [Other Sellers](#)
- [Special Payment Items Reporting Database and Database Registration](#)
- [Scrap Theft Tracking Database Registration](#)
- [State Police Report on Effectiveness](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Please Note: This summary does not include the [Secondhand Dealers and Junk Dealers Act](#) (MCL 445.401 et seq.), which specifically excludes a scrap processor, automotive recycler or a junkyard that deals principally in industrial scrap and is so licensed by the local unit of government.

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metal" means:

- Ferrous or Nonferrous Metal, or items that contain Ferrous or Nonferrous Metal, that are sold or offered for sale for the value of the Ferrous or Nonferrous Metal they contain rather than their original intended use;
- Ferrous or Nonferrous Metal removed from or obtained by cutting, demolishing, or disassembling a building, structure, or manufactured item; or
- Other metal that cannot be used for its original intended purpose but can be processed for reuse in a mill, foundry, die caster, or other manufacturing facility.

"Ferrous Metal" means a metal that contains significant quantities of iron or steel.

"Nonferrous Metal" means a metal that does not contain significant quantities of Ferrous Metal but contains copper, brass, platinum group-based metals, aluminum, bronze, lead, zinc, nickel, or alloys of those metals.

"Public Fixture" means an item that contains ferrous or nonferrous metal and is owned or under the exclusive control of a governmental unit. The term includes, but is not limited to, a street light pole or fixture, road or bridge guardrail, traffic sign, traffic light signal, or historical marker.

Restricted Property, as used in this summary, means the following items as listed in MCL 445.430:

- Public Fixtures;
- Metal articles or materials that are clearly marked as property belonging to a person other than the seller;
- A commemorative, decorative, or other cemetery-related or apparently ceremonial article;
- Metal articles or materials removed from property owned by a railroad company or from a railroad right-of-way; or
- A silver alloy telecommunication battery with a threaded insert terminal connection, not including a battery used in auto or mobile equipment.

Special Payment Items, as used in this summary, means the following items as listed in MCL 445.426. Section 6(1):

- Catalytic converters, unless the Seller is:
 - An automotive recycler as defined in [MCL 257.2a](#);
 - A manufacturer or wholesaler of catalytic converters; or
 - A muffler shop, tire store, or other retail business that sells converters separately or as part of an exhaust system;
- Air conditioners, air conditioner evaporator coils or condensers, or parts of air conditioner evaporator coils and condensers; or
- Copper wire, including copper wire that is burned in whole or in part to remove the insulation, copper pipe, or copper fittings.

The following items are covered by the Purchase Restrictions - Section 9 provision as listed in [MCL 445.429](#), Section 9(4):

- Any article containing Nonferrous Metal that is marked with any form of the name, initials, markings, or logo of a Governmental Entity, utility, cemetery, or railroad;
- Any beer kegs;
- Any Public Fixtures.

"First Purchaser" means the first buyer of a manufactured item that contains ferrous or nonferrous metal in a retail or business-to-business transaction. A person that purchases Scrap Metal or Restricted Property in violation of this act, or an automotive recycler, pawnshop, Scrap Metal Recycler, or Scrap Processor is not considered a first purchaser.

"Seller" means a person that either regularly, sporadically, or on a 1-time basis receives consideration from any other person from the purchase by a scrap metal dealer of scrap metal offered by that seller.

"Industrial or Commercial Customer" means a person that operates from a fixed location and is a seller of scrap metal to a scrap metal dealer under a written agreement that provides for regular or periodic sale, delivery, purchase, or receiving of scrap metal.

"Governmental Unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, this state, another state, or a foreign country.

"Scrap Metal Dealer" (referred to in this summary as Dealer) means a person or governmental unit that buys scrap metal and is not a first purchaser. The term includes, but is not limited to, a person, whether or not licensed under state law or local ordinance, that operates a business as a Scrap Metal Recycler, Scrap Processor, secondhand and junk dealer, or other person that purchases any amount of scrap metal on a regular, sporadic, or 1-time basis.

"Scrap Metal Recycler" means a person that purchases ferrous or nonferrous metal that is intended for recycling or reuse, whether regarded as a Scrap Processor, core buyer, or other similar business operation.

"Scrap Processor", as defined in [MCL 445.403](#), means a person, utilizing machinery and equipment and operating from a fixed location, whose principal business is the processing and manufacturing of iron, steel, nonferrous metals, paper, plastic, or glass, into prepared grades of products suitable for consumption by recycling mills, foundries, and other Scrap Processors.

"Scale Operator" means the employee of a Scrap Metal Dealer who operates or attends a scale that is used to weigh the scrap metal in a purchase transaction.

"Record" means a paper, electronic, or other generally accepted method of storing information in a retrievable form.

"Purchase Transaction" means a purchase of Scrap Metal, or the purchase of Restricted Property if the knowing purchase of or offer to purchase that Restricted Property is not prohibited, by a Scrap Metal Dealer. The term does not include any of the following:

- Used or secondhand, distressed, or salvage vehicle or vehicle parts by:
 - A used or secondhand vehicle or vehicle parts dealer that is licensed as a dealer under [MCL 257.248](#) and is acting within the scope of that dealer's license;
 - A vehicle scrap metal processor, vehicle salvage pool operator, or foreign salvage vehicle dealer that is licensed as a dealer under [MCL 257.248](#) and is acting within the scope of that dealer's license;
 - An automotive recycler that is licensed under [MCL 257.248](#) if the transaction is authorized under [MCL 257.217c](#); [MCL 257.1318](#); or [MCL 257.1352](#).
- Scrap Metal by a manufacturing facility that purchases from an Industrial or Commercial Customer for its own use in the production of metal articles or materials and does not in the ordinary course of its business purchase Scrap Metal for resale.
- Scrap Metal from a Governmental Unit.

[back to top](#)

Seller Requirements and Restrictions

In a Purchase Transaction, a Seller who is an individual or an individual acting as an agent or representative of a Seller must:

- Present their operator's or chauffeur's license, military ID card, Michigan ID card, passport, or other government-issued photo ID, and allow the Dealer to make a copy;
- Allow the Dealer to take their thumbprint, to be used only for identification purposes by the Dealer and investigation purposes by a law enforcement agency.
- Provide the Dealer with a signed statement that certifies they are the owner of, or otherwise authorized to sell, the Scrap Metal to the Dealer and are at least 16 years old.
- Certify that they have not been convicted of a crime involving the theft, conversion, or sale of Scrap Metal. An individual that has been convicted of a crime involving the theft, conversion, or sale of Scrap Metal may not enter into a Purchase Transaction.

[back to top](#)

Recordkeeping

A Dealer must prepare and maintain a separate, accurate, and legible record of each Purchase Transaction. A Dealer may use an electronic record-keeping system if it allows immediate access to each Seller's purchase transaction activities, documents, and images, including record information, images of the payment if required by the Payment Restriction provision, and payment information contained within an electronic payment card or encrypted receipt if such a method is used to pay the Seller.

A Purchase Transaction record must contain the following information:

- The following information from the Seller, and the deliverer if the deliverer is not the Seller, which may be retained in a separate file and used for future transactions:
 - The Seller's name and address.
 - The deliverer's name and address if the deliverer is not the Seller.
 - A legible copy of, or the name, address, and identifying number from, the Seller's or deliverer's operator's or chauffeur's license, military ID card, Michigan ID card, passport, or other government-issued photo ID.
- If delivered by licensed vehicle, the vehicle's license plate number;
- The date and time of the Purchase Transaction;
- A description of the predominant types of Scrap Metal purchased, made in accordance with the custom of the trade;
- The weight, quantity, or volume of Scrap Metal purchased, described and calculated in accordance with the custom of the trade;
- The name of the Scale Operator who weighs and inspects the Scrap Metal;
- The name of the Dealer's employee who purchased or authorized the purchase of the Scrap Metal if the purchaser was not the Scale Operator;
- A photograph or digital, electronic, or video image of the Scrap Metal purchased that meets one of the following, even if each item of Scrap Metal is not shown:
 - If the metal and the delivery vehicle are weighed, an overhead photo or image of the vehicle and the Scrap Metal in the vehicle on the scale; or
 - If only the metal is weighed, a photo or image of the Scrap Metal on the scale.

- The consideration paid and method of payment;
- The Seller's signed statement that certifies they are the owner of, or otherwise authorized to sell, the Scrap Metal to the Dealer and are at least 16 years old;
- The Seller's legible thumbprint;
- A digital photograph of the Seller or deliverer that includes their face and is taken at the time the Scrap Metal is delivered to the Dealer.
- If required by the Payment Restrictions provision, the photo, or digital or electronic image, of the Seller receiving payment by one of the following methods:
 - The delivery of the check or money order to the Seller; or
 - The dispensing of the cash to the Seller by an ATM located on the Dealer's premises and operated by electronic payment card or encrypted receipt.

[back to top](#)

Recordkeeping - Industrial or Commercial Customers

A Dealer is not required to prepare a record for a Purchase Transaction with an Industrial or Commercial Customer that meets all of the following:

- Payment is made directly to the Customer;
- The Customer's personal and business identifying information is on file and conforms to a written description of the type of Scrap Metal customarily purchased from them; and
- The information on file with the Dealer is periodically reviewed at least every 2 years and validated as current or updated by the Dealer.

[back to top](#)

Retention

Records must be retained for at least 1 year in a location readily accessible for inspection.

[back to top](#)

Information Confidentiality

A Seller's thumbprint may be used only for identification purposes by the Dealer and investigation purposes by a law enforcement agency.

[back to top](#)

Inspection

A local, state, or federal law enforcement agency, or railroad police in investigation of stolen railroad property, may inspect a Dealer's transaction records during normal business hours. The Dealer shall make the records, or copies of the records, available on request to any local, state, or federal law enforcement agency.

[back to top](#)

Tag and Hold

7 calendar day hold on any article containing Nonferrous Metal if the following apply:

- The deliverer does not have a written receipt or Documentation and:
 - The article has altered or obliterated serial numbers; or
 - The nonferrous Dealer would reasonably have knowledge it is or was the property of a Governmental Entity or a business due to identification on it or its type; or
 - The article is a commemorative, decorative, or other cemetery-related or apparently ceremonial article; or
 - The article is copper wiring, whether burned or with sheathing; or

- The article is subject to a notification or bulletin from any law enforcement agency received by the Dealer prior to the purchase.

Exempts articles that have been tagged and held by a Dealer or that were not initially subject to tag and hold if resold directly to another Dealer.

[back to top](#)

Purchase Restrictions - Section 9

[MCL 445.429](#) (Section 9) includes restrictions that are similar to the requirements of the Restricted Property provision, but are listed and penalized separately in the law.

Unless the Seller has specific written Documentation that the Seller is the owner, agent, or person with authority to possess and sell the following, a Seller shall not sell or offer for sale and a nonferrous Dealer shall not purchase any of the following:

- Any article containing Nonferrous Metal that is marked with any form of the name, initials, markings, or logo of a Governmental Entity, utility, cemetery, or railroad;
- Any beer kegs; or
- Any Public Fixtures.

[back to top](#)

Restricted Property

A person shall not knowingly sell or attempt to sell to a Dealer, and a Dealer shall not knowingly purchase or offer to purchase the following:

- Public Fixtures, unless the Seller is a Governmental Unit or has written authorization from the Governmental Unit that owned the property to sell the property.
- Metal articles or materials that are clearly marked as property belonging to a person other than the Seller, unless the Seller has authorization from that person to sell the property.
- A commemorative, decorative, or other cemetery-related or apparently ceremonial article, unless:
 - The Seller is the owner of the article;
 - The Seller is authorized by the owner to sell the article; or
 - The Seller of a cemetery-related article is the cemetery in which it was located.
- Metal articles or materials removed from property owned by a railroad company or from a railroad right-of-way, unless the Seller is:
 - The owner;
 - The manufacturer;
 - A contractor engaged in the business of repairing railroad equipment; or
 - A person that has written authorization from that owner, manufacturer, or contractor to sell those metal articles or materials.
- A silver alloy telecommunication battery with a threaded insert terminal connection (not including a battery used in auto or mobile equipment), unless the Seller is:
 - A provider of telecommunication service; or
 - Has written authorization from the provider of telecommunication service that owned the property to sell the property.

[back to top](#)

Payment Restrictions - Industrial or Commercial Customers

For Purchase Transactions with Industrial or Commercial Customers, a Dealer must use one of the following payment methods, as agreed to by the Dealer and Customer:

- By one of the following methods; if the payment is mailed, the Dealer may mail the payment to the street address or post office box as directed by the Customer:
 - Check or money order;
 - An electronic payment card or encrypted receipt that may only be converted to cash in an ATM that is:
 - Located on the Dealer's premises;
 - Is used for the sole purpose of dispensing cash in connection with Purchase Transactions; and
 - Provides a digital or electronic image of the dispensing of the cash to the Seller or individual acting on behalf of the Seller that includes the person's face.
- By bank wire transfer or other electronic delivery to an account of the Customer; or
- By barter or a trade or exchange of Scrap Metal or other property as all or part of the consideration for the transaction.

[back to top](#)

Payment Restrictions - Other Sellers

For Purchase Transactions with Sellers that are not Industrial or Commercial Customers and that do not involve Special Payment Items, a Dealer must pay by:

- A check or money order. The Dealer shall make and retain a photograph or digital or electronic image of the delivery of the check or money order to the Seller or individual acting on behalf of the Seller that includes the face.
- An electronic payment card or encrypted receipt that may only be converted to cash in an ATM that is:
 - Located on the Dealer's premises;
 - Is used for the sole purpose of dispensing cash in connection with Purchase Transactions; and
 - Provides a digital or electronic image of the dispensing of the cash to the Seller or individual acting on behalf of the Seller that includes the face.

For Purchase Transactions involving Special Payment Items, if the purchase price for the transaction is less than \$25, or if the total purchase price for all of a Seller's purchase transactions involving Special Payment Items in a business day is less than \$25, a Dealer must pay by:

- A direct deposit or electronic transfer to the seller's account at a financial institution;
- A check or money order, or an electronic payment card or encrypted receipt, as described for transactions that do not involve Special Payment Items.

If the purchase price for the transaction involving Special Payment Items is \$25 or more, or if the total purchase price for all of a Seller's purchase transactions for Special Payment Items in a business day is \$25 or more, for those Special Payment Items only payment must be made by

mailing one of the following to the Seller at the address shown on the ID card presented for the record:

- A check or money order, or an electronic payment card or encrypted receipt, as described for transactions that do not involve Special Payment Items;
- A nontransferable receipt that the Seller may redeem at the Dealer's premises for a check or money order, or an electronic payment card or encrypted receipt, as described for transactions that do not involve Special Payment Items.

[back to top](#)

Special Payment Items Reporting Database and Database Registration

Representatives of the scrap metal industry may, in consultation with the Dept. of State Police, develop or contract for the development of a web-based electronic database of Special Payment Item transactions. If selected by the State Police, the scrap metal representatives may implement, operate, and maintain the database. The database must:

- Be available to all Dealers in Michigan;
- Be web-based;
- Be capable of conducting statewide real-time searches by item description or Seller;
- Be accessible to law enforcement agencies through a password supported, internet-based platform;
- Allow a Dealer to report all of the following information concerning the purchase of 1 or more Special Payment Items by noon of the next business day:
 - Name and address of the Dealer;
 - Name and address of the Seller;
 - Date and time of the Purchase Transaction;
 - A description of the items purchased;
 - The weight or volume of the items purchased;
- Allow a law enforcement agency to flag the name of any Seller that appears in the database and has been convicted of a crime involving the theft, conversion or sale of Scrap Metal. The database must notify the agency of subsequent Purchase Transactions by the Seller, with the notice providing all information about the Seller and their Purchase Transactions that Dealers have reported to the Database.

If one or more databases are developed, the State Police shall notify each group of companies whether the features of their database meet the above requirements. The State Police shall select a single shared electronic database that meets the above requirements for implementation and operation. A person objecting to the selection may file a petition with the State Police that describes the basis of their objection; the State Police shall provide them with an administrative hearing, conducted as a contested case under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

If the database is implemented, beginning no later than 30 days after the database is determined in operation by the State Police and after the State Police publishes notice that the database is implemented and operational, a Dealer shall:

- Register or subscribe to the database and pay a reasonable fee for such;

- By noon of the next business day, electronically report the information required above for the purchase of Special Payment Items to the database. A Dealer is not required to report the consideration paid or other pricing information.

[back to top](#)

Scrap Theft Tracking Database Registration

A Dealer shall register with or subscribe to, maintain that registration or subscription, and use in the conduct of its business, an internet-based database available to Dealers, law enforcement agencies, and the general public that lists and tracks, at a minimum, thefts of Scrap Metal. The database may be reasonably limited in terms of time and geographical area. ISRI's ScrapTheftAlert.com is considered appropriate; a Dealer may register with or subscribe to any other database that provides substantially the same services.

A Dealer must make each theft alert or similar notice available to each employee engaged in purchasing or weighing Scrap Metal sold or offered for sale to the Dealer, and ensure those employees review on a daily basis any recent alerts or notices that they have not previously reviewed.

[back to top](#)

State Police Report on Effectiveness

By July 1, 2016, the State Police shall provide a written report to the governor, the speaker of the house, and the senate majority leader on the effectiveness of the amendments made by [2013 Michigan HB 4593](#) in reducing Scrap Metal theft and assisting in the investigation and prosecution of Scrap Metal theft, as well as any recommendations for further legislative action.

[back to top](#)

Penalties

An individual that has been convicted of a crime involving the theft, the conversion, or the sale of Scrap Metal may not enter into a Purchase Transaction.

A person who violates the Recordkeeping, Retention, Information Confidentiality, Inspection, Tag and Hold, or Purchase Restrictions - Section 9 provisions, and knows or should have known they have violated the provisions, is guilty of a misdemeanor punishable by a fine of up to \$500 and/or imprisonment for up to 93 days. If a violation of the Recordkeeping provision is the result of a malfunction of an electronic recordkeeping system, it is an affirmative defense that the Dealer diligently pursued repair of the system after the malfunction occurred, and implemented and maintained a manual recordkeeping system for Purchase Transactions that occurred while the electronic system was malfunctioning.

A Dealer that purchases Scrap Metal or Restricted Items and knew or should have known that it was stolen, or a person who sells Scrap Metal or Restricted Items to a Dealer and knew or should have known that it was stolen, is guilty of a felony punishable by:

- 1st offense: up to 5 years imprisonment and/or up to a \$5,000 fine;
- 2nd or subsequent: up to 5 years imprisonment and/or up to a \$10,000 fine.

A person that violates this act knowing or having reason to know that the person is violating this act is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$5,000.

If a Special Payment Items Reporting Database is implemented, a Dealer that knowing fails to register with and report to the database is responsible for a state civil infraction and shall pay a civil fine of \$500 for the first violation, \$1,000 for a second violation, and \$5,000 for a third or subsequent violation.

A person may bring a private cause of action against a Seller or a Dealer, in a court of competent jurisdiction, for monetary damages suffered from violation of this act. If the court finds the violation included the purchase or sale of stolen property and the Dealer in an action against the Dealer, or the Seller in an action against the Seller, knew or should have known the property was stolen, the court shall award treble damages for the value of the property stolen, meaning the greatest of the replacement cost of the stolen property, the cost of repairing damage caused by the larceny, or the total of the replacement and repairs costs. The court may also award costs and reasonable attorney fees.

The remedies under this act are cumulative and do not affect the ability or right of any other person, local governmental unit, or state or federal governing unit to bring any action under this or any other civil, criminal, or regulatory act or ordinance that is otherwise not prohibited by law.

This act does not exempt or release any person from obtaining and maintaining a license under, or complying with any strictures contained in, any other act or ordinance.

Under [MCL 750.356](#), for a person who commits larceny by stealing Scrap Metal, the value of the property stolen will be determined as the greatest of the replacement cost of the stolen property, the cost of repairing damage caused by the larceny, or the total of the replacement and repairs costs.

[back to top](#)

References and Recent Amendments

Statutes

- [MCL Ch. 445, Act 429 of 2008](#) Scrap Metal Regulatory Act; § 445.421 to § 445.443
- [MCL Ch. 445, Act 350 of 1917](#) Secondhand Dealers and Junk Dealers; § 445.401 to § 445.408
- [MCL Ch. 750, Act 328 of 1931, Ch. LII, § 750.356](#) Larceny; property; penalties; total value of property stolen; enhanced sentence; prior convictions; "scrap metal" defined. (subsection (6) defines the value of property stolen as it relates to scrap metal)

Recent Amendments

- [2013 Michigan HB 4593](#) (effective July 1, 2014)
- [2013 Michigan HB 4595](#) (effective July 1, 2014)
- [2015 Michigan SB 304](#)

MINNESOTA

Minnesota Statutes Chapter 325E, Section 21 Dealers in scrap metal; records, reports, and registration § 325E.21-1 to § 325E.21-10

Minnesota Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping and Seller's Receipt](#)
- [Photo / Video Cameras](#)
- [Retention and Information Security](#)
- [Inspection](#)
- [Notice to Sellers](#)
- [Beer Kegs](#)
- [Payment Restriction](#)
- [Hold](#)
- [Registration](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metal" means wire and cable commonly and customarily used by communication and electric utilities; and copper, aluminum, or any other metal purchased primarily for its reuse or recycling value as raw metal, including metal that is combined with other materials at the time of purchase, but does not include a scrap vehicle as defined in § 168A.1501, subdivision 1.

"Scrap Metal Dealer" or "Dealer" means a person engaged in the business of buying or selling scrap metal, or both, but does not include a person engaged exclusively in the business of buying or selling new or used motor vehicles or motor vehicle parts, paper or wood products, rags or furniture, or secondhand machinery.

"Proof of Identification" means an identification document issued by any state, federal, or foreign government that includes the person's photograph, full name, birth date, and signature.

[back to top](#)

Exemptions

Purchases of aluminum cans are exempt. Purchases of scrap vehicles are exempt; rules for scrap vehicles are given under § 168A.1501.

[back to top](#)

Recordkeeping and Seller's Receipt

A Dealer shall create a permanent electronic record in English at the time of each purchase or acquisition of Scrap Metal with the following information:

- A complete and accurate description, including weight if customarily purchased by weight, of the Scrap Metal;
- The date, time, and place of the receipt of the Scrap Metal;
- A unique transaction identifier;
- A copy or scan of the Seller's proof of identification including the ID number;
- The amount paid;

- The number of the check or electronic transfer used to purchase the Scrap Metal;
- The license plate number and description of the delivery vehicle, including any identifying marks on the vehicle (business name, decals, markings, etc.);
- The Seller's signed statement that the Scrap Metal is not stolen, is free of any liens or encumbrances, and that the Seller has the right to sell it;
- A copy of the Seller's receipt that includes the following:
 - The Dealer's name and address;
 - The date and time the Scrap Metal was received;
 - An accurate description of the Scrap Metal; and
 - The amount paid for the Scrap Metal.

The Seller must be provided with a copy of the receipt required for the records. Instead of a full record, only a copy of the receipt is required for property purchased at open sale from any bankrupt stock, or from any of the following with an established place of business: merchants, manufacturers, salvage pools, insurance companies, rental car companies, financial institutions, charities, dealers licensed under section 168.27, or wholesale dealers.

[back to top](#)

Photo / Video Cameras

A Dealer shall install and maintain video surveillance cameras, still digital cameras, or similar devices at each business location where the Dealer purchases any Scrap Metal, positioned to record or photograph the readily identifiable face of each Seller or prospective Seller of Scrap Metal who enters the location. The Dealer must also photograph the Seller or prospective Seller's vehicle, including license plate, either by video camera or still digital camera, so an accurate and complete description of it may be obtained from the recordings. Photos and recordings must be clearly and accurately associated with their respective records. Such devices must record and display the accurate date and time and be on at all times when the location is open for business and at any other time when Scrap Metal is purchased.

[back to top](#)

Retention and Information Security

Records must be retained for 3 years, except that recordings and images must only be retained for 60 days. Except as provided in the law, a Dealer may not disclose personal information from transaction records without the customer's consent except in response to a request from a law enforcement agency. A Dealer must implement reasonable safeguards to secure and prevent unauthorized access to or disclosure of the information.

[back to top](#)

Inspection

Records and Scrap Metal purchased or received must at all reasonable times be open to the inspection of any properly identified law enforcement officer. Law enforcement agencies in the jurisdiction where a dealer is located may conduct regular and routine inspections to ensure compliance, refer violations to the city or county attorney for criminal prosecution, and notify the Registrar of Motor Vehicles.

Video or still digital cameras must be shown upon request to a properly identified law enforcement officer for inspection; recordings and images must be open at all reasonable times to inspection by such.

[back to top](#)

Notice to Sellers

A Dealer must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that the transactions are reported to law enforcement daily.

[back to top](#)

Beer Kegs

A Dealer shall not purchase or receive a refillable metal beer keg from anyone except the manufacturer of the keg, the brewer of the beer that was in the keg, or an authorized representative of the manufacturer or brewer.

[back to top](#)

Payment Restriction

No cash for Scrap Metal. Payment must be by check or electronic transfer.

[back to top](#)

Hold

A law enforcement official from any agency with probable cause to believe that property in the possession of a Dealer is stolen or is evidence of a crime may notify the Dealer to hold the property for 30 days or until the hold is released or the property is confiscated. The hold must be confirmed in writing by the originating agency within 72 hours.

If an item is identified as stolen or evidence in a criminal case, the official may either place the item on hold or extend a hold; direct its release to a registered owner or the owner's agent; or physically confiscate and remove the item pursuant to a written notification. The person seizing the item shall provide identification upon request and shall provide the Dealer the name and telephone number of the seizing agency and investigator, and the case number related to the seizure. A Dealer may request seized property be returned as provided in [§ 626.04](#)

The official shall notify the Dealer when a hold or seize order is no longer necessary. A Dealer may process or dispose of Scrap Metal if a notification to confiscate is not issued during the hold; or if the scrap is a motor vehicle that a law enforcement official does not physically remove within 15 calendar days of a notice to confiscate.

[back to top](#)

Registration

Every Dealer must register annually with the Commissioner of Public Safety. A Dealer shall pay the Commissioner a \$50 annual fee.

[back to top](#)

Penalties

A Dealer or their agent who intentionally violates the law is guilty of a misdemeanor.

If a Dealer is required to hold Scrap Metal or the metal is seized by law enforcement, the Dealer and any other victim shall be entitled to seek restitution against the person who delivered the metal to the Dealer in any criminal case that may arise from the investigation, including out-of-pocket expenses for storage and lost profit.

[back to top](#)

Preemption

This law preempts and supersedes any local ordinance or rule concerning the same subject matter.

[back to top](#)

References and Recent Amendments

Statutes

- [Minn. Stat. Ch. 325E, Sec. 21](#) Dealers in scrap metal; records, reports, and registration; § 325E.21-1 to §325E.21-10

Recent Amendments

- [2013 Minnesota HF 1214](#) (provision effective dates vary; generally effective August 1, 2013)
- [2014 Minnesota HF 2605](#) (changes effective dates of HF 1214 provisions to February 15, 2016; other changes effective immediately)
- [2015 Minnesota SF 878](#) (repeals reporting requirements and removes references to Minneapolis automated property system interchange file specification format created by 2013 Minnesota HF 1214 and 2014 Minnesota HF 2605)

[back to top](#)

MISSISSIPPI

Miss. Code Ann. Title 97, Chapter 17, Section 71
§ 97-17-71 to § 97-17-71.2

Mississippi Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Customer Transaction Report](#)
- [Transport Report](#)
- [Bronze Cemetery Objects - Reporting and Restrictions](#)
- [Hold](#)
- [Metal Beer Kegs and Syrup Tanks](#)
- [Manhole Covers and Political Subdivision Property](#)
- [HVAC](#)
- [No Purchase From Minors](#)
- [Hours of Purchase](#)
- [Payment Restrictions](#)
- [Registration](#)
- [Contested Ownership](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Metal Property" includes the following, but does not include ferrous materials not listed.

- "Railroad Materials": any materials, equipment and parts used in the construction, operation, protection and maintenance of a railroad.
- "Copper Materials": any copper wire, bars, rods or tubing, including copper wire or cable or coaxial cable of the type used by public utilities, common carriers or communication services providers, whether wireless or wire line, copper air conditioner evaporator coil or condenser, aluminum copper radiators not attached to a motor vehicle, or any combination of these.
- "Aluminum Materials": any aluminum cable, bars, rods or tubing of the type used to construct utility, communication or broadcasting towers, aluminum utility wire and aluminum irrigation pipes or tubing. "Aluminum materials" does not include aluminum cans that have served their original economic purpose.
- Electrical, communications or utility brass;
- Metal covers for service access and entrances to sewers and storm drains;
- Metal bridge pilings;
- Irrigation wiring and other metal property attached to or part of center pivots;
- Grain bins;
- Stainless steel sinks;
- Catalytic converters not attached to a motor vehicle; and
- Metal beer kegs.

Bronze Cemetery Objects, as used in this summary, refers to a bronze vase and/or marker, memorial, statue, plaque, or other bronze object used at a cemetery or other location where

deceased persons are interred or memorialized. Bronze Cemetery Objects are subject to special purchase restrictions and reporting requirements.

Metal Beer Kegs and Metal Syrup Tanks are subject to special purchase restrictions.

Manhole Covers and Political Subdivision Property, as used in this summary, refers to manhole covers and other similar types of utility access covers, including storm drain covers, or any metal property clearly identified as belonging to a political subdivision of the state or a municipality. Manhole Covers and Political Subdivision Property are subject to special purchase restrictions and reporting requirements.

Air Conditioner Evaporator Coils and Condensers are subject to special purchase and payment restrictions.

Metal Property transported from within Mississippi to any point outside the state is subject to special reporting requirements

"Scrap Metal Dealer" means any person who is engaged, from a fixed location or otherwise, in the business of paying compensation for Metal Property that has served its original economic purpose, whether or not the person is engaged in the business of performing the manufacturing process by which metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

"Personal Identification Card" means any government issued photographic ID card.

[back to top](#)

Exemptions

Does not apply to purchases of Metal Property from:

- A law enforcement officer acting in an official capacity;
- A trustee in bankruptcy, executor, administrator or receiver who has presented proof of such status to the Dealer;
- Any public official acting under a court order who has presented proof of such;
- A sale on the execution, or by virtue of any process issued by a court, if proof thereof has been presented; or
- A manufacturing, industrial or other commercial vendor that generates or sells regulated Metal Property in the ordinary course of its business, except transactions between Dealers are not exempt.

[back to top](#)

Recordkeeping

A Dealer or other purchaser must record the following for each purchase transaction:

- The Seller's name, address, and age, from the Seller's Personal ID Card;
- Date and Place of each acquisition of Metal Property;
- Weight, quantity, or volume, and a general description of the type of Metal Property (wire, tubing, extrusions, casting, etc.);
- Amount of consideration given;

- License number, state of issue, make, and type of the delivery vehicle;
- If a person other than the Seller delivers the property, the Deliverer's name, address, and age;
- A signed statement from the person receiving consideration that they are the rightful owner of or are entitled to sell the metal property;
- A copy of the Seller's personal ID card; or a copy of the Deliverer's personal ID card if delivered by a person other than the Seller; and
- A photo, video, or similar likeness of the Seller or Deliverer with the metal property clearly visible in which the person's facial features are clearly visible.
- A photo of the Metal Property in the same form, without change, in which the Metal Property was acquired, with a digital date and time stamp and the identity of the photographer recorded.

[back to top](#)

Retention

Records shall be retained for not less than 2 years from the purchase transaction date. Transport Reports received by a sheriff shall be retained in the sheriff's office as a public record open to inspection by the public at all reasonable times.

[back to top](#)

Inspection

Records and any purchased Metal Property shall be made available to any law enforcement officer, after proper identification as a law enforcement officer, during usual and customary business hours. Any photo of Metal Property in the records shall be admissible in any civil or criminal proceeding. Transport Reports received by a sheriff shall be retained in the sheriff's office as a public record open to inspection by the public at all reasonable times.

[back to top](#)

Customer Transaction Report

The Mississippi Secretary of State has adopted rules requiring Customer Transaction Reports containing the record information be submitted electronically to the State's agent (currently Leads Online) no later than 5 PM of the next business day following a purchase. The [Mississippi Scrap Metal Rules](#) are available online along with additional information on compliance and sample reports on the [Mississippi Secretary of State Scrap Metal Site](#).

[back to top](#)

Transport Report

Any person transporting or causing Metal Property to be transported from any point within this state to any point outside this state must first report the same record information required of a Purchaser by the Recordkeeping provision to the sheriff of the county from which the person departs the state. The sheriff receiving the report shall keep the information in records maintained in his office as a public record available for inspection by any person at all reasonable times.

Exempts transactions with:

- A public utility, as defined in § 77-3-3, engaged in carrying on utility operations;
- A railroad, as defined in Section § 77-9-5;
- A communication service provider, whether wireless or wire line;
- A Scrap Metal Dealer.

Bronze Cemetery Objects - Reporting and Restrictions

It is unlawful to sell or purchase any bronze vase and/or marker, memorial, statue, plaque, or other bronze object used at a cemetery or other location where deceased persons are interred or memorialized, unless the source of the bronze is known and notice is provided to the municipal or county law enforcement agency where the Dealer is located. The notice must identify all names, letters, dates, and symbols on the bronze and include a photograph of the bronze. Written permission from the cemetery and the appropriate law enforcement agency must be received before such objects may be purchased, processed, sold, or melted.

[back to top](#)

Hold

Automatic 3 day hold on Metal Property; must be held separate and identifiable.

A law enforcement officer with reasonable cause to believe that Metal Property has been stolen and an affidavit from the alleged rightful owner of the property may issue a written 15 day hold notice to the Purchaser that specifically identifies the items subject to the hold. After receiving additional substantive evidence beyond the initial affidavit, an officer may issue a written notice extending the hold for an additional 15 days. An officer may release a written hold early. After a hold has expired or been released the Purchaser may dispose of the property unless other disposition is ordered by a court of competent jurisdiction.

[back to top](#)

Metal Beer Kegs and Syrup Tanks

Purchasers may not knowingly purchase or possess a metal beer keg or a metal syrup tank generally used by the soft drink industry on any premises used to buy, sell, store, shred, melt, cut or otherwise alter scrap metal. This applies to kegs and tanks whether damaged or undamaged, or any recognizable part thereof. However, metal syrup tanks are exempt if:

- The Purchaser obtains a bill of sale at the time of purchase from the Seller; and
- The Seller is the manufacturer, a soft drink company, or a soft drink distributor.

[back to top](#)

Manhole Covers and Political Subdivision Property

For manhole covers and other similar types of utility access covers, including storm drain covers, or any metal property clearly identified as belonging to a political subdivision of the state or a municipality, a Dealer may only purchase the property from the political subdivision, the municipal utility, or the manufacturer. Any Purchaser who purchases in bulk shall have 24 hours to determine if prohibited property is included in the purchase; if such is included, the Purchaser shall notify law enforcement no later than 24 hours.

[back to top](#)

HVAC

Air conditioner evaporator coils and condensers may only be sold by a person who possesses documentation that they are an authorized agent, representative, or employee of one of the following:

- A licensed HVAC contractor who acquired the evaporator coil or condenser in the performance as a contractor as defined in § 31-3-1;

- A company meeting all local or municipal permitting requirements to repair, replace and install HVAC units containing copper evaporator coils or condensers; or
- A company holding a HVAC installer or repairer privilege license.

[back to top](#)

No Purchase from Minors

Metal Property may not be purchased from a person under 18 years old.

[back to top](#)

Hours of Purchase

Metal Property may not be purchased, acquired or collected between 9 PM and 6 AM.

[back to top](#)

Payment Restrictions

No cash for Metal Property. Payment shall not be made for 3 days after the purchase transactions, and must be made either by:

- Check issued to the Seller, made payable to the name and address of the Seller, and mailed to the recorded address of the Seller; or
- By electronic funds transfer.

For air conditioner evaporator coils and condensers, payment must be by check or money order, mailed to the business address of the company for whom the metal is sold, with the name of the company as the payee.

[back to top](#)

Registration

Persons who purchase scrap metal, deal in scrap metal, or otherwise engage in the scrap metal business must register with the Secretary of State. Registrations expire 2 years from their registration or renewal date, and may be suspended, revoked, or refused renewal for any failure to comply or for another good cause once the registrant has been given notice and the opportunity for a hearing.

[back to top](#)

Contested Ownership

If a Purchaser contests another party's identification or claim of ownership of Metal Property, the other party may bring a civil action in the Purchaser's county circuit court, but only if they had made a timely report of the Metal Property's theft to the proper authorities. The other party shall include the means of identification they used to determine the ownership of the Metal Property.

[back to top](#)

Penalties

When a lawful owner recovers stolen Metal Property from a Purchaser who has complied with the law, and the Seller is convicted of a violation of the metals law, or theft by receiving stolen property (§ 97-17-70), the court shall order the convicted person to make full restitution to the Purchaser, including, without limitation, attorney's fees, court costs and other expenses.

It is unlawful for any person to give a false statement of ownership or a false or altered identification or vehicle tag number and receive consideration in return for Metal Property.

Failure to abide by the Recordkeeping and Hold provisions shall be prima facie evidence that a person received the Metal Property knowing it to be stolen in violation of § 97-17-70.

Except as otherwise provided, a willful or knowing violation is a misdemeanor punishable by a maximum \$1,000 fine per offense.

If the purchase transaction(s) related to the violation and any costs which are, or would be, incurred in repairing or recovering any property damaged in the theft or removal of the Metal Property, in aggregate:

- Exceed \$1,000 but less than \$5,000, a violation is a felony punishable by a maximum 5 years imprisonment and/or a maximum \$10,000 fine;
- Exceed \$5,000 but less than \$25,000, a violation is a felony punishable by a maximum 10 years imprisonment and/or a maximum \$10,000 fine;
- Exceed \$25,000, a violation is a felony punishable by a maximum 20 years imprisonment and/or a maximum \$10,000 fine.

A person guilty of stealing Metal Property or receiving Metal Property, knowing it to be stolen in violation of § 97-17-70, must make full restitution to the victim, including, without limitation, restitution for property damage that resulted from the theft of the property.

A violation of the HVAC provision is a misdemeanor punishable by a maximum \$1,000 fine, but does not preclude prosecution for any other applicable criminal offense.

This law shall not be construed to repeal other criminal laws. Whenever conduct proscribed by any provision of this law is also proscribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

Failure to register is a misdemeanor punishable by a \$500 to \$1,000 fine for a first offense, or a felony punishable by a maximum 3 years imprisonment by the Department of Corrections and/or maximum \$5,000 fine for a second or subsequent offense.

A registrant must declare under penalty of perjury whether they have been convicted of a violation of this law or of a criminal offense of larceny, burglary, or vandalism involving Metal Property. A registrant convicted of such is prohibited from registering for 5 years from the date of conviction. A false statement for unlawfully registering is perjury; a person so convicted is disqualified for life from registering as a Scrap Metal Dealer.

The Secretary of State (SoS) may conduct a criminal background check of registrants, issue cease and desist orders to Purchasers in violation of the law, issue orders for violations imposing up to a \$1,000 administrative penalty per offense, or bring action to enjoin the acts or practices of a Purchaser along with up to a \$1,000 civil penalty per offense. Registration may be suspended, revoked, or refused renewal for failure to comply or other good cause once the applicant has been given notice and the opportunity for a hearing.

Any person aggrieved by a final order of the SoS may obtain a review in the Chancery Court of the First Judicial District of Hinds County. The aggrieved must file in the court, within 30 days of the SoS order being entered, a written petition asking that the order be modified or set aside, in whole or in part. The SoS shall certify and file in court a copy of the filing and the evidence for why the order was entered. The court has exclusive jurisdiction to affirm, modify, enforce or set aside the order, in whole or in part.

[back to top](#)

Preemption

Does not prohibit municipalities and counties from enacting and implementing ordinances, rules and regulations that impose stricter requirements relating to purchase transactions.

[back to top](#)

References and Recent Amendments

Statutes

- [Miss. Code Ann.](#) Title 97, Ch. 17, Section 71; § 97-17-71 to 97-17-71.2

Regulations

- [Mississippi Secretary of State - Scrap Metal](#)
- [Mississippi Scrap Metal Rules](#) - Mississippi Administrative Code Title 1, Part 13: Regulation and Enforcement – Scrap Metal Dealer Regulation

Recent Amendments

- [2014 Mississippi HB 585](#) (effective July 1, 2014)
- [2016 Mississippi SB 2649](#) (effective July 1, 2016)

[back to top](#)

MISSOURI

Mo. Rev. Stat. Title XXVI, Chapter 407,
§ 407.300 to § 407.305
(as amended by 2018 Missouri HB 1832)

Missouri Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping - Regulated Material](#)
- [Recordkeeping - Bronze Material](#)
- [Retention](#)
- [Inspection](#)
- [Beer Kegs](#)
- [Restricted Metals](#)
- [Payment Restrictions](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Please Note: Amendments by [2018 Missouri HB 1832](#), effective 08/28/18, are included in this summary. References to "metal" or "scrap metal" in § 407.300 are changed to "material", and batteries from motor vehicles, heavy equipment, or tractors are added to Regulated Materials.

Materials Covered and Other Definitions (adapted as a Definitions section is not provided)

Regulated Material (ISRI term) refers to the following:

- Copper, brass, or bronze;
- Aluminum wire, cable, pipe, tubing, bar, ingot, rod, fitting, or fastener;
- Material containing copper or aluminum that is knowingly used for farming purposes as farming is defined in § 350.010;
- Catalytic Converter;
- (added by HB 1832) Motor vehicle, heavy equipment, or tractor battery.

Keg means any container capable of holding four gallons or more of beer, wine, or intoxicating liquor and which is designed to dispense beer, wine, or intoxicating liquor directly from the container for purposes of consumption. Any nonreturnable container with a capacity of less than six gallons shall not be considered a keg.

Restricted Metal as described in § 407.302 (1.) refers to metal that can be identified as belonging to a public or private cemetery, political subdivision, telecommunications provider, cable provider, wireless service or other communications provider, or electrical cooperative, water utility, municipal utility, or utility regulated under chapter 386 or 393. Examples given include: bleachers, guardrails, signs, street and traffic lights or signals, and manhole cover or covers, whether broken or unbroken.

Bronze Material refers to any bronze cemetery vase or receptacle, any bronze cemetery memorial, or any bronze statuary, whatever may be the condition.

Scrap Metal Dealer, or Dealer, refers to any purchaser of junk, scrap metal, or any secondhand property that purchases or trades in metals covered by the law.

[back to top](#)

Exemptions

The Recordkeeping - Regulated Material provision exempts transactions for which:

- The total amount paid for all Regulated Material purchased or sold does not exceed \$50 unless the material is a catalytic converter;
- The Regulated Material is a minor part of a larger item, except for equipment used in the generation and transmission of electrical power or telecommunications.

The Recordkeeping - Regulated Material and Payment Restriction provisions do not apply if the Seller, including a farm or farmer, has an existing relationship with the Dealer and is known to the Dealer to be an established business or political subdivision that operates a business with a fixed location that can be reasonably expected to generate Regulated Material and can be reasonably identified as such.

[back to top](#)

Recordkeeping - Regulated Material

A Dealer must keep a register with written or electronic records for each purchase or trade where Regulated Material is obtained for value, containing the following information:

- A copy of the Seller's photo identification issued by the state or the US government;
 - If different from or not included on the identification, the Seller's current address, gender, birth date, and a photograph.
 - If the Dealer pays cash for copper or a catalytic converter, a copy of the Seller's driver's license or nondriver's license is required.
- The date, time, and place of the transaction;
- The license plate number of the Seller's vehicle used during the transaction;
- A full description of the material including the quantity by weight;
- The purchase price.

[back to top](#)

Recordkeeping - Bronze Material

A Dealer that purchases Bronze Material shall enter into a register kept for the purpose the following information:

- The Seller's name, address, and place of business;
- The Seller's driver's license number;
- A full description of each purchase including the quantity by weight.

[back to top](#)

Retention

Regulated Material Records shall be retained for at least 24 months from when the material was obtained. No retention period is specified for Bronze Material records.

[back to top](#)

Inspection

Regulated Material records shall be available for inspection by any law enforcement officer.

Bronze Material records may be inspected by any Missouri peace officer at any reasonable time.

[back to top](#)

Beer Kegs

A Dealer may not knowingly purchase or possess a metal beer keg, whether damaged or undamaged, or any reasonably recognizable part of a keg, on any premises the Dealer uses to buy, sell, store, or in any way alter scrap metal, unless the purchase is from the brewer or its authorized representative.

[back to top](#)

Restricted Metals

A Dealer may not purchase Restricted Metal from anyone other than the identified owner or a manufacturer of the Restricted Metal unless the Seller has written authorization to sell from the owner or manufacturer.

[back to top](#)

Payment Restrictions

A Dealer may not make cash payments of \$500 or more. Such must be made by either:

- Issuing a prenumbered check drawn on a regular bank account in the name of the Dealer, payable to the documented Seller; or
- Using an automated cash or electronic payment distribution system which photographs or videotapes the recipient and identifies the payment with a distinct transaction in the record.

If paying cash for copper or a catalytic converter, a copy of the Seller's driver's license or nondriver's license is required.

[back to top](#)

Penalties

Anyone violating provisions related to Recordkeeping - Regulated Material, Retention, or Inspection, or Restricted Metal provisions is guilty of a class B misdemeanor.

A person violating the Beer Keg provision is guilty of a class A misdemeanor punishable only by fine, but may also be prosecuted for any other applicable criminal offense.

Except for provisions related to Bronze Material, anyone who knowingly and willfully violates the law is guilty of:

- 1st offense: a Class B misdemeanor and up to a \$500 fine;
- 2nd offense: a Class A misdemeanor and up to a \$1,000 fine;
- 3rd offense: revocation of any and all business licenses held with Missouri.
- Any person selling stolen scrap metal is responsible for consequential damages.

Any person violating provisions related to Bronze Material is guilty of a misdemeanor.

[back to top](#)

References and Recent Amendments

Statutes

- [Mo. Rev. Stat. Title XXVI, Ch. 407](#) Merchandising Practices
 - [§ 407.300](#). Copper wire or cable, catalytic converters, collectors and dealers to keep register, information required - penalty - exempt transactions.



Voice of the Recycling Industry™

ISRI is the voice of the recycling industry, promoting safe, economically sustainable and environmentally responsible recycling through networking, advocacy and education.

- [§ 407.301](#). Metal beer keg, prohibition on purchase or possession by scrap metal dealer - violation, penalty.
- [§ 407.302](#). Metal belonging to various entities - scrap yard not to purchase - violation, penalty.
- [§ 407.303](#). Scrap metal dealers - payments in excess of \$500 to be made by check - exceptions - violations, penalty.
- [§ 407.305](#). Bronze statuary, receptacles or memorials, record of purchase required of collectors and dealers - penalty.

Recent Amendments

- [2013 Missouri HB 103](#) (effective August 28, 2013)
- [2013 Missouri SB 157 & SB 102](#) (effective August 28, 2013)
- [2018 Missouri HB 1832](#) (effective August 28, 2018)

[back to top](#)

MONTANA

Mont. Code Ann. Title 30, Chapter 22
Nonferrous Metal Transactions
§ 30-22-101 to § 30-22-103

Montana Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Nonferrous Metal" means metal and metal alloys not containing significant quantities of iron or steel, including but not limited to: copper; brass; aluminum, other than aluminum cans; bronze; lead; zinc; nickel; stainless steel, including stainless steel beer kegs; and precious metals, including catalytic converters.

"Salvage Metal Dealer" means a person who is engaged in the business of paying, trading, recycling or bartering for or collecting nonferrous metals that have served their original economic purpose, whether or not the person is engaged in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

[back to top](#)

Recordkeeping

A Dealer must retain a nonferrous metal acquisition record for nonferrous transactions exceeding \$50 that includes the following information:

- Time and Date of the transaction;
- Name of the person conducting the transaction on behalf of the Dealer;
- A general description of the property acquired using specifications recognized by ISRI, including the type, amount, and any readily discernible identifiable marks;
- Amount of consideration given;
- A Copy of the Seller's current, valid driver's license, passport, or state ID card;
 - Copy of ID not required if the Seller is provided a check for payment.
- Signature of the Seller
- License number and description of the delivery vehicle.

[back to top](#)

Retention

Records must be retained for not less than 2 years from the date of the transaction.

[back to top](#)

Penalties

A Dealer who violates the law is guilty of a misdemeanor, with absolute liability as defined in [§ 45-2-104](#) applying.

A person commits Theft of nonferrous metal who knowingly takes, steals, carries away, destroys, injures, or otherwise damages any personal or real property of another without consent, including fixtures or improvements, to obtain Nonferrous Metal, punishable by:

- If the injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss is less than \$1,500, up to a \$5,000 fine and/or 1 year imprisonment;
- If such is \$1,500 or more, up to a \$50,000 fine and/or 10 years imprisonment.

[back to top](#)

References and Recent Amendments

Statutes

- [MCA Title 30, Chapter 22, Part 1](#). Nonferrous Metal Transactions, General Provisions; § 30-22-101 to § 30-22-103

Recent Amendments

- [2013 Montana HB 463](#)

[back to top](#)

NEBRASKA

Neb. Rev. Stat. Chapter 69, Article 4, Section 401-409
§ 69-401 to § 69-409

Nebraska Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Payment Restrictions](#)
- [Purchase Restrictions - Seller](#)
- [Beer Kegs](#)
- [Manhole Covers and Sewer Grates](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions

"Regulated Metals Property" means catalytic converters; all nonferrous metal (except gold and silver); manhole covers; sewer grates; or metal beer kegs, including those kegs made of stainless steel.

"Secondary Metals Recycler" means a person, firm, or corporation engaged in gathering or obtaining regulated metals property that has served its original economic purpose, or in the business of or with facilities for converting regulated metals property into raw material products by various methods, but not including the exclusive use of hand tools.

[back to top](#)

Exemptions

The law exempts:

- Purchases of Regulated Metals Property from a commercial vendor that generates or sells regulated metals property in the ordinary course of its business;
- Beverage or food cans; or
- Recycling or neighborhood cleanup programs contracted or sponsored by the state or any political subdivision.

[back to top](#)

Recordkeeping

Recyclers shall maintain a hard copy or electronic record of all purchases of Regulated Metals Property with the following information:

- The Recycler's name and address;
- The name and signature of the individual entering the information;
- The Date and Time of the transaction;
- The weight and grade of the Regulated Metals Property;
- A description of the type made in accordance with the custom of the trade;
- The amount of consideration given, if any;
- The Vendor's name, signature, and address;

- The number from and a copy of the Deliverer's current motor vehicle operator's license, state-issued ID card, or federal government-issued ID card (photo not specified);
- A Date and Time stamped photo or video of the Regulated Metals Property;
- If the person is delivering copper or catalytic converters, the right index fingerprint of the Deliverer (or left index if the right is missing).

The Vendor shall receive at no charge a plain written or printed receipt containing a copy of the record entries required.

[back to top](#)

Retention

A Recycler shall retain the transaction record for no less than one year after the purchase.

[back to top](#)

Inspection

Any peace officer has the right to inspect any and all Purchased Regulated Property in the Recycler's possession and transaction records during usual and customary business hours.

[back to top](#)

Payment Restrictions

No cash payments totaling more than \$25. Purchases made from the same person within a 4-hour period are considered a single transaction. Payment may be made only to the individual named on the identification presented for the records.

Payment for copper and catalytic converters must be by check. If the purchase total for copper is more than \$100, the check must be sent by US mail, postage prepaid.

Payment for a manhole cover or sewer grate must be by draft or check and sent by US mail, postage prepaid, to the official address of the finance department of the political subdivision or to the 3rd party seller, and made payable only to said entity.

[back to top](#)

Purchase Restrictions - Seller

No Recycler may purchase or receive Regulated Metals Property from:

- A person "who is under the age of majority"; or
- A person who does not possess a valid identification as required for the records.

[back to top](#)

Beer Kegs

No Recycler may purchase or receive a metal beer keg if the serial number or other identifying insignia has been destroyed, removed, altered, covered, or defaced.

[back to top](#)

Manhole Covers and Sewer Grates

No Recycler may purchase or receive a manhole cover or sewer grate except from:

- An authorized representative of the political subdivision that owns the property as evidenced by the stamping or engraving on the property, or
- A 3rd party with a legitimate bill of sale, letter of authorization, or similar from the political subdivision allowing them to possess and sell the property.

[back to top](#)

Penalties

A person violating the law is guilty of a Class II misdemeanor.

[back to top](#)

Preemption

Nothing in the law shall be construed to do away with or affect a lawful rule, regulation, resolution, ordinance, or statute which is more restrictive.

[back to top](#)

References and Recent Amendments

[Neb. Rev. Stat. Chapter 69](#), Article 4, Section 401-409; § 69-401 to § 69-409

[back to top](#)

NEVADA

Nevada Revised Statutes Title 54, Chapter 647
Dealers In Junk And Secondhand Materials; Scrap Metal
Processors;
NRS 647.010 to NRS 647.145

Nevada Revised Statutes Title 15, Chapter 202,
NRS 202.582 Removal, damage or destruction of certain
property to obtain scrap metal; penalties.

Nevada Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Licensing - Processors](#)
- [Recordkeeping - Processors](#)
- [Seller's Receipt - Processors](#)
- [Retention - Processors](#)
- [Inspection - Processors](#)
- [Reporting - Processors](#)
- [Information Confidentiality - Processors](#)
- [Notice to Sellers - Processors](#)
- [Hold - Processors](#)
- [Payment Restrictions - Processors](#)
- [Licensing - Junk Dealers](#)
- [Recordkeeping - Junk Dealers](#)
- [Retention - Junk Dealers](#)
- [Inspection - Junk Dealers](#)
- [Reporting - Junk Dealers](#)
- [Purchase Restrictions - Junk Dealers](#)
- [Shipping Permit - Junk Dealers](#)
- [Penalties](#)
- [No Preemption](#)
- [References and Recent Amendments](#)

Please Note: Nevada has three categories of purchasers regulated in its law: Junk Dealers, Scrap Metal Processors, and Secondhand Dealers. Provisions covering Junk Dealers and Scrap Metal Processors are included in the summary, but are re-ordered from their appearance in the law.

Materials Covered and Other Definitions

"Junk" includes old iron, copper, brass, lead, zinc, tin, steel and other metals, metallic cables, wires, ropes, cordage, bottles, bagging, rags, rubber, paper, and all other secondhand, used or castoff articles or material of any kind, but does not include Scrap Metal.

"Scrap Metal" means:

- Nonferrous metals, scrap iron, stainless steel or other material or equipment which consists in whole or in part of metal and which is used in construction, agricultural operations, electrical power generation, transmission or distribution, cable, broadband or telecommunications transmission, railroad equipment, oil well rigs or any lights maintained by the State or a local government, including, without limitation, street lights, traffic-control devices, park lights or ballpark lights; and
- Catalytic converters.

"Scrap Metal" does not include waste generated by a household, aluminum beverage containers, used construction scrap iron or a metal product in its original manufactured form which contains not more than 20% by weight nonferrous metal.

"Junk Dealer" means every person, firm or corporation engaged in the business of purchasing or selling hides or junk, other than used books.

"Scrap Metal Processor" means any person who either:

- Engages in the business of purchasing, trading, bartering, or otherwise receiving Scrap Metal; or
- Uses machinery and equipment for processing and manufacturing iron, steel or nonferrous scrap into prepared grades, and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

"Secondhand dealer" means any person engaged in whole or in part in the business of buying and selling metal junk, melted metals or secondhand personal property, other than antiques, used books, coins and collectibles, but does not include buying or selling certain secondhand firearms or antique parts, accessories, or other equipment relating to such.

"Designated Third Party" means any person with whom a local law enforcement agency has entered into a contract for the purpose of receiving and storing any information required by the Reporting - Scrap Metal Processor provision.

[back to top](#)

Exemptions

Exempts all charitable organizations recognized as such by the U.S. Internal Revenue Code.

Purchases of Scrap Metal from a business entity are exempt from the Reporting - Scrap Metal Processors provision.

[back to top](#)

Scrap Metal Processors (§ 647.092 to § 647.098)

Licensing - Scrap Metal Processors

A person shall not purchase Scrap Metal unless they possess both a valid business license issued by the State pursuant to [NRS Chapter 76](#) and a valid business from the city or county, as applicable, where the person purchases Scrap Metal, and must obtain all required authorizations to operate from or be registered with the solid waste management authority for the area in which they purchase metal.

[back to top](#)

Recordkeeping - Scrap Metal Processors

Processors must maintain a book or other permanent record of each purchase of Scrap Metal with the following, legibly written in English if applicable:

- The Date of purchase;
- The name of the person who conducted the transaction on behalf of the Processor;
- A copy of one of the following valid identifications from the Seller:
 - Personal identification card issued by any state or territory of the U.S.;
 - Driver's license issued by any state or territory of the U.S.;
 - United States military identification card; or
 - An identification valid under [§ 237.200](#) (consular identification cards)
- The name, street, house number, and date of birth listed on the ID provided;

- The Seller's physical description, including gender, height, and eye and hair color;
- A photo, video record or digital record of the Seller;
- Fingerprint of the Seller's right index finger (or, if not available, a remaining finger or thumb);
- The license number and general description of the delivery vehicle;
- A description of the Scrap Metal consistent with the standards published and commonly applied in the Scrap Metal industry;
- The amount, in weight, of Scrap Metal purchased (required for Reporting provision)
- The price paid by the Processor;
- A photograph or video recording of the purchase.

[back to top](#)

Seller's Receipt - Scrap Metal Processors

A Processor shall provide the Seller a receipt containing the following:

- The Date, Time, and Place of the purchase;
- An identifying description and weight of the Scrap Metal purchased;
- The price paid by the Processor;
- A copy of the personal identification provided; and
- The license number of the delivery vehicle.

[back to top](#)

Retention - Scrap Metal Processors

The photograph or video recording of the purchase must be retained on-site for at least 60 days after the date of the purchase.

[back to top](#)

Inspection - Scrap Metal Processors

All Scrap Metal purchased and the records required must at all times during normal business hours be open to inspection by a prosecuting attorney or any peace officer.

[back to top](#)

Reporting - Scrap Metal Processors

A local law enforcement agency may establish an electronic reporting system or utilize an existing electronic reporting system to receive information related to purchases of Scrap Metal by Processors in its jurisdiction. The system must provide for electronic submission by Processors, and be electronically secure and accessible only to:

- A Processor for the purpose of submitting information;
- An officer of the local law enforcement agency; and
- If applicable, an authorized employee of any designated 3rd party.

If such a system is established, a Processor transacting business in that jurisdiction must submit electronic reports to the agency or designated 3rd party by 12 PM of the next business day with the following information from the transaction record, except that purchases of scrap metal from a business entity are exempt from reporting:

- The Seller's name;
- The date of purchase;
- The name of the person who conducted the transaction on behalf of the Processor;

- The name, street, house number, and date of birth listed on the Seller's ID;
- The Seller's physical description, including gender, height, and eye and hair color;
- The license number and general description of the delivery vehicle;
- The description of the Scrap Metal as recorded;
- The amount, in weight, of Scrap Metal purchased.

An agency with an established reporting system shall submit a report on January 15 of each odd-numbered year to the Director of the Legislative Council for transmittal to the Nevada Legislature. The agency's report shall address the effect of the reporting system on the incidence of crime related to the sale or purchase of scrap metal within its jurisdiction.

The Division of Industrial Relations of the Dept. of Business and Industry shall, in consultation with representatives of local law enforcement agencies and the scrap metal industry, adopt regulations to ensure the confidentiality of reported information, including:

- The confidentiality of consumer information;
- The confidentiality of proprietary information;
- Equity of input into contractual terms;
- Contractual terms related to disclaimers, indemnification, and the ownership of data by a designated 3rd party;
- Oversight of a designated 3rd party that handles, maintains, or has access to such information, including without limitation the qualifications, equipment, procedures, and background checks required of the 3rd party;
- The manner in which reported information may be used, shared or disseminated; and
- The maintenance of reported information in relationship to other data maintained by a law enforcement agency.

[back to top](#)

Information Confidentiality - Scrap Metal Processors

Except as provided in the Reporting - Scrap Metal Processors provision, any information concerning the purchase of Scrap Metal must be kept confidential by the person possessing the information.

[back to top](#)

Notice to Sellers - Scrap Metal Processors

If required to report electronically to local law enforcement, a Processor must display prominently at the point of purchase a public notice, in a form approved by the local law enforcement agency, describing the information that the Processor must report.

[back to top](#)

Hold - Scrap Metal Processors

A peace officer or investigator involved in the investigation or prosecution of criminal activity may place a 7 business day written hold on any property related to the criminal activity in the possession of a Processor. A hold may be extended for up to an additional 7 day period by providing written notice. The peace officer or investigator who placed the hold shall notify the Processor in writing when the investigation or prosecution has concluded or when the hold is no longer necessary, whichever occurs sooner.

A peace officer or investigator who placed a hold on property may obtain custody of it if they obtain and provide the Processor with a copy of written authorization from the prosecuting attorney which includes a description of the property and acknowledgement of the Processor's interest in the property. Property thus received may only be disposed of in the manners set forth in [NRS 52.385](#) or [179.125](#) to [179.165](#), inclusive.

[back to top](#)

Payment Restrictions - Scrap Metal Processors

\$150 cash threshold for purchases of Scrap Metal; a Processor may only make one cash transaction of less than \$150 with the same Seller on the same day. Payments of \$150 or more must be by check or electronic transfer. For payments made by check to a business, the check must be made payable to the business using the name of the business.

[back to top](#)

Junk Dealers (§ 647.020 to § 647.070)

Licensing - Junk Dealers

A Junk Dealer or Secondhand Dealer that enters into an agreement to allow a customer to buy back property after purchasing it from them must be licensed as a pawnbroker with the local government where the transaction occurred if a license is required and abide by the state pawnbroker statutes, NRS Chapter 646.

Local governments may, by ordinance, prohibit any person from advertising within its respective jurisdiction as a Junk or Secondhand Dealer unless the person holds a valid license to engage in such within the jurisdiction, and may require that the number of the person's business license be included in such advertising.

[back to top](#)

Recordkeeping - Junk Dealers

Every Dealer shall at all times keep conspicuously posted in their office or place of business a description of and the amount of hides and junk purchased by the Dealer each day, together with the names and addresses of the Sellers.

A Dealer must obtain a statement from a Seller with the following information:

- When, where, and from whom the Seller obtained the property;
- The Seller's age and residence, including information necessary to locate it;
- The name of the Seller's employer and the place of business or employment.
- If the Seller is a minor, the written consent of their parent or guardian.

Dealers must also keep a book written in ink at the time of purchase with the following:

- A full and accurate description of each article purchased;
- The Seller's full name, residence, and driver's license number;
- A general description of the Seller;
- The Seller's vehicle license number;

- For purchases of metallic wire burned in whole or part to remove insulation:
 - The name of the person who delivered the metallic wire;
 - A description of the written evidence obtained identifying the person who delivered the metallic wire.

For purchases of metallic wire burned in whole or part to remove insulation, a Dealer must keep the following in addition to the book:

- Written evidence identifying the person who delivered the metallic wire; and
- A statement signed by the person who delivered the metallic wire in which the person attests that the metallic wire was lawfully acquired and burned.

[back to top](#)

Retention - Junk Dealers

No entry in a Dealer's book may be erased, mutilated, or changed. Materials obtained for burned metallic wire shall be retained for not less than 3 years.

[back to top](#)

Inspection - Junk Dealers

A Dealer's book must be open at all times to inspection by the sheriff of the county or any of their deputies, any member of the police department in the city or town, and any constable or other county or municipal officer in the county in which the Dealer does business.

Any Dealer who has personal property that is alleged to have been lost or stolen in their possession shall exhibit the property on demand to any police officer or constable, or other municipal or county official of the city, town or county in which Dealer does business, or to any person duly authorized in writing by any magistrate to inspect property in the possession of the Dealer, if the person exhibits his or her authorization to the Dealer.

[back to top](#)

Reporting - Junk Dealers

On the next business day following a purchase a Dealer must file the original statement from the Seller (as provided for in the Recordkeeping Provision) in the office of the sheriff of the county where the purchase was made (or, in a county whose population is less than 47,500, the office of the sheriff's deputy for transmission to the sheriff). If the purchase was made in a city or town, the Dealer shall file a copy with the chief of police.

If any property in their possession matches a description of property advertised as lost or stolen, a Dealer shall immediately notify the sheriff of the county or chief of police of the city or town where they do business of when and from whom the property was received.

[back to top](#)

Purchase Restrictions - Junk Dealers

No Dealer or any other entity shall purchase any junk from:

- Any person appearing to be intoxicated;
- Any person appearing to be in any abnormal mental condition;
- Any minor, without the written consent of a parent or guardian.

[back to top](#)

Shipping Permit - Junk Dealers

Before shipping or transporting purchased articles, a Dealer shall apply to the sheriff, deputy, or any constable or chief of police in the county from which the shipment is to be made, for inspection of the articles to be shipped. The application must be signed and contain full information on the number, character, and description of the articles. The officer shall issue a permit for shipment of the articles described.

[back to top](#)

Penalties

A Junk Dealer or Secondhand Dealer may not, as part of their business as a Dealer, buy a motor vehicle from a person and sell the motor vehicle to the same person.

Any Junk Dealer who violates any of the Junk Dealer provisions is guilty of a misdemeanor.

Unless a greater penalty is provided by a specific statute, a person who violates any of the Scrap Metal Processor provisions is guilty of a misdemeanor.

Any person, including but not limited to Dealers and Processors, or any agent, employee, or representative of such, who buys or receives any Junk or Scrap Metal which they know or should reasonably know is ordinarily used by and belongs to a cable, broadband, telecommunications, telephone, telegraph, gas, water, electric, or transportation company, or to a political subdivision engaged in furnishing utility service, and who fails to use ordinary care in determining whether the person selling or delivering the Junk or Scrap Metal has a legal right to do so, is guilty of criminally receiving such property, subject to a category D felony and punishable as provided in [NRS 193.130](#).

A person who knowingly and willfully violates the Information Confidentiality - Scrap Metal Processors provision is guilty of a gross misdemeanor.

Under [NRS 202.582](#), A person who willfully and maliciously removes, damages, or destroys any utility property, agricultural property, property maintained by a state or local government, or a construction site or existing structure to obtain scrap metal shall be punished as follows:

- If the value of the property removed, damaged or destroyed, including the cost of repairing or replacing the property or structure, is:
 - Less than \$500: guilty of a misdemeanor.
 - \$500 or more: guilty of a category D felony punishable under [NRS 193.130](#).
- If the removal, damage, or destruction caused an interruption in utility service, guilty of a category C felony punishable under [NRS 193.130](#).

A person guilty of a violation under [NRS 202.582](#) shall also pay restitution and:

- 1st offense: 100 hours of community service;
- 2nd offense: 200 hours of community service;
- 3rd or subsequent: up to 300 hours of community service for up to 1 year.

[back to top](#)

No Preemption

The provisions of this chapter do not impair the power of cities and counties in this State to license, tax and regulate any person, firm or corporation now engaged in or hereafter engaged in the buying and selling of Junk or Scrap Metal.

[back to top](#)

References and Recent Amendments

Statutes

- [Nevada Revised Statutes Title 54, Chapter 647](#) - Dealers In Junk And Secondhand Materials; Scrap Metal Processors; NRS 647.010 to NRS 647.145
- [Nevada Revised Statutes Title 15, Chapter 202, NRS 202.582](#) Removal, damage or destruction of certain property to obtain scrap metal; penalties.

Recent Amendments

- [2013 Nevada SB 235](#) (effective October 1, 2013)
- [2013 Nevada SB 37](#) (effective May 23, 2013)

[back to top](#)

NEW HAMPSHIRE

N.H. RSA Title XXX, Chapter 322
Junk and Scrap Metal Dealers
§ 322:1 to § 322:15

New Hampshire Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered](#)
- [License](#)
- [Display of License on Vehicles](#)
- [Recordkeeping](#)
- [Inspection](#)
- [Metal Kegs for Malt Beverages](#)
- [No Purchase from Minors](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Materials Covered

New Hampshire's law covers the following as specified commodities: "old junk, old or scrap metals, old or second-hand bottles, cotton or woolen mill waste, unfinished cloth, cotton or woolen mill yarns in an unfinished state, not of family manufacture, or second-hand articles, excepting furniture and books."

[back to top](#)

License

Local governments may license dealers, shopkeepers, accumulators, and bailees dealing in specified commodities and may determine and designate business locations and locations where such items may be accumulated, stored, or handled. Licenses shall be effective until April 1st of the next year. License fees shall be fixed by the local licensing board and must be the same for all similar licenses in the same city or town. Licensees and their employees must carry a photocopy of the license on their person.

Local licensing boards may revoke a license after a hearing, and may establish rules, regulations, and restrictions to be incorporated in the license. Local licenses shall contain a condition that Licensees may not purchase or barter specified commodities from a Seller under 16 years old without the written consent of the Seller's parent or guardian. An unlicensed person may not purchase specified commodities unless acting as a helper to, and accompanied by, a licensee.

[back to top](#)

Display of License on Vehicles

A licensee transporting specified commodities in any wagon or vehicle shall place upon the outside "and upon each side of the same" the license number in plain, legible, 3 inch figures.

[back to top](#)

Recordkeeping

Licensees must keep records with the following (record retention period is not specified):

- An account and description of the specified commodities purchased;
- The Date and Time of the purchase;
- The Seller's name and residence, verified by their government-issued photo ID.

[back to top](#)

Inspection

Any officer with jurisdiction may enter a licensee's business premises to ascertain how the licensee conducts business and examine all specified commodities purchased, obtained, kept, or stored in or upon the premises, and all books and inventories relating thereto. The licensee and their employees or agents must exhibit all such to the officer on demand.

[back to top](#)

Metal Kegs for Malt Beverages

Licensees may not purchase a metal keg for malt beverages or pieces of such keg unless the Seller is the brewer whose name or marking appears on the keg. Licensees may not purchase kegs where the brewer's name or marking has been removed or obliterated.

[back to top](#)

No Purchase from Minors

Licensees may not purchase or barter specified commodities from a Seller under 16 years old without the written consent of the Seller's parent or guardian.

[back to top](#)

Penalties

A person operating without a license is guilty of a violation for each day such offense continues. The superior court may enjoin a person from operating a business in old or secondhand commodities and/or for carrying on said business at any place other than designated in their license. A licensee or their agent or employee who refuses to admit an officer authorized to enter their premises or fails to exhibit requested materials on demand, or any person who willfully hinders, obstructs, or prevents the officer from entering and inspecting the premises is guilty of a misdemeanor.

A violation for which no other punishment is provided is a misdemeanor.

[back to top](#)

References and Recent Amendments

Statutes

- [N.H. RSA Title XXX, Ch. 322](#): Junk and Scrap Metal Dealers; § 322:1 to § 322:15

Recent Amendments

- [2013 New Hampshire SB 104](#)
- [2014 New Hampshire HB 343](#)
- [2015 New Hampshire HB 510](#)

[back to top](#)

NEW JERSEY

N.J. Rev. Stat. Title 45, Subtitle 2, Chapter 28
§45:28-1 to § 45:28-5

New Jersey Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions

"Scrap Metal" means used, discarded, or previously owned items that consist predominantly of ferrous metals, aluminum, brass, copper, lead, chromium, tin, nickel, or alloys.

"Scrap Metal Business" means a commercial establishment which, as one of its principal business purposes, purchases scrap metal for purposes of resale or processing.

[back to top](#)

Recordkeeping

The Operator of a scrap metal business shall, before receiving or purchasing any Scrap Metal from a Deliverer or Seller:

- Verify their identity by examining a valid government-issued photo ID, and
- Make a copy of the ID and record the identifying number.

For receipts or purchases in excess of 100 lbs. or \$50, whichever is less, record:

- The date of receipt or purchase of the Scrap Metal;
- The name and address of the Deliverer or Seller;
- The type and number of the Deliverer or Seller's identification;
- A copy of the identification;
- A description of the Scrap Metal, including its type, amount, and form;
- The signature of the Deliverer or Seller; and
- Any other information required by the Attorney General.

[back to top](#)

Retention

Records for receipts or purchases in excess of 100 lbs. or \$50 must be maintained for 5 years. The retention period for the identifying number and copy of photo ID collected for all transactions is not specified.

[back to top](#)

Inspection

An Operator must make any records maintained available, upon request, to any law enforcement agency or official investigating the possible theft or resale of scrap metals.

[back to top](#)

Reporting

An Operator shall immediately report to an appropriate law enforcement agency any delivery or sale of Scrap Metal under circumstances that would cause a reasonable person to believe the Scrap Metal was probably stolen or otherwise inappropriately obtained.

Any person who reports information to a law enforcement official or agency concerning the suspect delivery or sale of Scrap Metal shall be immune from any civil liability for the report unless they acted in bad faith or with malicious intent.

[back to top](#)

Penalties

Any violations are:

- 1st or 2nd offense: disorderly persons offenses;
- 3rd or subsequent: crimes of the fourth degree.

[back to top](#)

References and Recent Amendments

[N.J. Rev. Stat. Title 45, Subtitle 2, Ch. 28](#); § 45:28-1 to § 45:28-5

[back to top](#)

NEW MEXICO

N.M. Stat. Ann. Chapter 57, Article 30
Sale of Recycled Metals
§ 57-30-1 to § 57-30-14

New Mexico Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Restricted Regulated Material](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Hold](#)
- [Notice to Sellers](#)
- [Registration](#)
- [Scrap Theft Alert Registration](#)
- [Regulation and Licensing Department](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Regulated Material" includes Aluminum Material, Bronze Material, Copper or Brass Material, Steel Material, Lead Material, and Restricted Regulated Material.

"Aluminum Material" meaning a product made from aluminum, an aluminum alloy or an aluminum byproduct. "Aluminum material" includes an aluminum beer keg but does not include other types of aluminum cans used to contain a food or beverage.

"Bronze Material", meaning a cemetery vase, receptacle, or memorial made from bronze; bronze statuary; or material readily identifiable as bronze.

"Copper or Brass Material", meaning:

- Insulated or noninsulated copper wire, hardware or cable of the type used by a public utility, commercial mobile radio service carrier or common carrier that consists of at least twenty-five percent copper; or
- A copper or brass item of a type commonly used in construction or by a public utility, commercial mobile radio service carrier or common carrier;

"Lead Material" means a lead acid battery or material readily identifiable as being made of or containing lead.

"Steel Material", meaning a product made from an alloy of iron, chromium, nickel or manganese, including stainless steel beer kegs;

Restricted Regulated Material, as listed in § 57-30-2.4, for this summary means:

- Infrastructure grade regulated material that has been burned to remove insulation, unless the Seller can produce written proof that the regulated material was lawfully burned;

- Regulated material where the manufacturer's make, model, serial or personal identification number or other identifying marks engraved or etched upon the material have been conspicuously removed or altered;
- Regulated material marked with the name, initials or otherwise identified as the property of an electrical company, a telephone company, a cable company, a water company or other utility company, a railroad or a governmental entity;
- A utility access cover;
- A water meter cover;
- A road or bridge guard rail;
- A highway or street sign;
- A traffic directional or control sign or signal;
- A metal beer keg that is clearly marked as being the property of the beer manufacturer; or
- A catalytic converter that is not part of an entire motor vehicle.

"Secondhand Metal Dealer" means a scrap metal processor in the business of operating or maintaining a scrap metal yard in a physical location in which scrap metal or cast-off regulated material is purchased for shipment, sale or transfer.

"Peace Officer" means any full-time salaried and commissioned or certified law enforcement officer of a police or sheriff's department that is part of or administered by the state or a political subdivision of the state.

"Personal Identification Document" means a driver's license; a military identification card; or a passport issued by the U.S. or by another country and recognized by the U.S.

[back to top](#)

Exemptions

Purchases of Regulated Material from a manufacturing, industrial or other commercial vendor that sells Regulated Material in the ordinary course of business are exempt.

[back to top](#)

Recordkeeping

A Dealer shall keep an accurate and legible written record, in a form approved by the Regulation and Licensing Department, of each purchase of:

- Copper or Brass Material;
- Bronze Material;
- Lead Material;
- Aluminum Material in excess of 10 lbs.; or
- Steel Material in excess of one ton, except that a written record shall be kept of each purchase of a stainless steel beer keg.

The transaction record shall be in English and include:

- The place and date of each purchase;
- The name and address of each Seller;

- The identifying number from each Seller's personal ID;
- The year, make, model, and license plate number of the motor vehicle used to transport the Regulated Material;
- A description of the type and quantity of Regulated Material made in accordance with the custom of the trade;
- The Seller's signed written statement, provided by the Dealer, that the Seller is the legal owner of or is lawfully entitled to sell the Regulated Material;
- A digital photo of the Seller with a date and time stamp;
- A digital photo of the Regulated Material with a date and time stamp.

[back to top](#)

Restricted Regulated Material

For Restricted Regulated Material, a Dealer must obtain and record written documentation indicating the Seller is the rightful owner or has permission from the rightful owner or that the material was otherwise lawfully obtained. The Regulation and Licensing Department shall create rules that more specifically describe the documentation required.

[back to top](#)

Retention

A Dealer must retain records for 1 year after they are made.

[back to top](#)

Inspection

A Dealer shall produce records to a Peace Officer upon request during the Dealer's normal business hours. An inspecting Peace Officer shall inform a Dealer that they are a Peace Officer.

[back to top](#)

Reporting

A Dealer that becomes aware they are in possession of Regulated Material that was stolen or unlawfully obtained must report to a local law enforcement agency within 24 hours.

A Dealer must report the Regulated Material transaction record by the second business day following a transaction to the database maintained by the Regulation and Licensing Department. Effective January 1, 2014, a Dealer must upload the required report directly to the database. The database is exclusively accessible to law enforcement agencies; records received by the Department shall be made available by the end of the second business day following the receipt.

[back to top](#)

Hold

There is an automatic 24 hour hold on all Regulated Material acquisitions.

A Dealer that becomes aware they are in possession of Regulated Material that was stolen or unlawfully obtained must hold the material on their premises.

A Peace Officer that determines a Dealer may be in possession of property that was stolen or is evidence in a criminal investigation may place a hold on the property for up to 5 days or until the hold is lifted or the property is seized, whichever is earliest.

[back to top](#)

Notice to Sellers

A Dealer must maintain in a prominent place in their business, in open view to Sellers, a notice in 2 inch lettering that states their usual business hours as well as the following:

"A PERSON ATTEMPTING TO SELL REGULATED MATERIAL MUST PRESENT SUFFICIENT IDENTIFICATION AS REQUIRED BY STATE LAW.

WARNING: STATE LAW PROVIDES A CIVIL FINE FOR A PERSON WHO INTENTIONALLY PROVIDES A FALSE DOCUMENT OF IDENTIFICATION OR OTHER FALSE INFORMATION TO A SECONDHAND METAL DEALER WHILE ATTEMPTING TO SELL REGULATED MATERIAL."

The notice may be on a sign that contains another notice required by law.

[back to top](#)

Registration

A Dealer must be registered with the Regulation and Licensing Department to buy or sell Regulated Material. Registrations and renewals are subject to a \$25 application fee and are valid for three years from the date of issuance unless suspended or revoked. An application must include:

- The Applicant's full name and business address;
- A list of all locations where the Applicant engages or will engage in the business of buying or selling Regulated Material; and
- Any other information the Department may require by rule.

A Dealer must also comply with all federal requirements for scrap metal dealers, including maintaining storm water permits.

[back to top](#)

Scrap Theft Alert Registration

A Dealer shall register for the metal theft alert system maintained by ISRI or its successor organization, and keep all employees involved in the purchasing or receiving of Regulated Material apprised of alerts received on theft of Regulated Material in the geographic area.

[back to top](#)

Regulation and Licensing Department

The Regulation and Licensing Department is responsible for registration of Dealers and maintaining a database for report information. The Superintendent of the Department is expressly authorized to make regulations regarding Regulated Materials records, the database, and documentation for Restricted Regulated Material. Information for Dealers is available at <http://www.rld.state.nm.us/overview.aspx>

[back to top](#)

Penalties

A person may not, with the intent to deceive, display a false or invalid personal ID in connection with an attempted sale of Regulated Material; make a false statement or representation to a Dealer in connection with the Recordkeeping or Restricted Regulated Material provisions, or deliberately

remove or alter any of a manufacturer's identifying marks engraved or etched upon Regulated Material.

A person violating the provisions may be assessed a civil penalty of up to \$1,000 per violation. A Dealer's registration may be suspended or revoked if they intentionally violate a provision. Prior to the imposition of a penalty or suspension or revocation of registration, the person will be given notice and the opportunity to be heard pursuant to § 61-1

[back to top](#)

Preemption

A local government entity may not impose reporting requirements on Dealers regarding the purchase or acquisition of Regulated Material.

[back to top](#)

References and Recent Amendments

[N.M. Stat. Ann. Ch. 57, Article 30](#) Sale of Recycled Metals; § 57-30-1 to § 57-30-14

New Mexico Regulation and Licensing Dept.: [Recycled Metals Overview and Forms](#)

Recent Amendments

- [2016 New Mexico SB 76](#)

[back to top](#)

NEW YORK

N.Y. G.B.S. Law Article 6-C
Scrap Processors
§ 69-e to § 69-h

N.Y. G.B.S. Law Article 6
Junk Dealers
§ 60 to § 64

New York Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [License - Scrap Processors](#)
- [Recordkeeping - Scrap Processors](#)
- [Retention - Scrap Processors](#)
- [Inspection - Scrap Processors](#)
- [Penalties - Scrap Processors](#)
- [License - Junk Dealers](#)
- [Recordkeeping - Junk Dealers](#)
- [Retention - Junk Dealers](#)
- [Reporting - Junk Dealers](#)
- [Hold - Junk Dealers](#)
- [No Purchase from a Child - Junk Dealers](#)
- [Penalties - Junk Dealers](#)
- [References and Recent Amendments](#)

Please Note: New York General Business Article 6-C governs licensed Scrap Processors; businesses that are not licensed or engaged as scrap metal processors are governed by Article 6 - Junk Dealers. Summaries for the Provisions impacting each are presented separately.

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Junk Metal" means any product made of steel, copper, copper alloy, brass, aluminum, or aluminum alloy that is readily used or useable by a public utility, railroad, county, city or state highway department, public or private school, or an institution of higher education or which has an established market for resale to Scrap Processors.

"Junk Dealer" means any entity engaged in purchasing and reselling valuable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, salvage yards, collectors of or dealers in junk and junk cars or trucks. "Junk Dealer" and the provisions applying to Junk Dealers do not apply to not apply to any person, association, partnership or corporation duly licensed and engaged in the business of Scrap Processing.

"Scrap Metal Processing Facility" shall mean an establishment engaged primarily in the purchase, processing and shipment of ferrous and/or non-ferrous scrap, the end product of which is the production of raw material for remelting purposes for steel mills, foundaries, smelters, refiners, and similar users.

"Scrap Processor" shall mean any person, association, partnership or corporation operating and maintaining a "Scrap Metal Processing Facility".

[back to top](#)

Exemptions

The Recordkeeping - Scrap Processor provision exempts transactions less than \$50 that do not involve pig or pigs of metal, bronze or brass castings or parts thereof, sprues or gates or parts thereof, utility wire or brass car journals, or of metal beer kegs.

The Dealer Recordkeeping, Retention, Reporting, and Hold provisions only cover transactions involving any pig or pigs of metal, bronze or brass castings or parts thereof, sprues or gates or parts thereof, copper wire or brass car journals, or metal beer kegs.

The Dealer provisions do not apply to "cities of the first class".

"Junk Dealer" and the provisions applying to Junk Dealers do not apply to not apply to any person, association, partnership or corporation duly licensed and engaged in the business of Scrap Processing.

[back to top](#)

Scrap Processors

License - Scrap Processors

Scrap Processors must obtain a license from the mayor, supervisor, or licensing authority of their city, village, town, or municipality. Licenses expire on June 30 of each year; license fees are \$75 for the Processor's principal place of business or \$50 for other locations.

[back to top](#)

Recordkeeping - Scrap Processors

Processors must record any purchase of any pig or pigs of metal, bronze or brass castings or parts thereof, sprues or gates or parts thereof, utility wire or brass car journals, or of metal beer kegs; or any purchase of \$50 or more of ferrous or nonferrous scrap. Processor records must include:

- The Date of purchase;
- Seller's name and residence address;
- The Seller's driver's license number or information from a government-issued photo ID card, if any, "or by such description as will reasonably located the seller";
- The type and quantity of the items purchased;
- Signature of the Seller or their agent.

A Processor must also record a copy of the Seller's government-issued photo ID card used to verify their identity and retain it in a separate book, register, or electronic archive.

[back to top](#)

Retention - Scrap Processors

Processor records must be retained for 3 years, except that the copy of the Seller's government-issued photo ID need only be retained for 2 years.

[back to top](#)

Inspection - Scrap Processors

Processor records shall be available for inspection by the state or municipal police department in which the establishment is located.

[back to top](#)

Penalties - Scrap Processors

A violation by a Scrap Processor is subject to a maximum \$200 fine. A willful violation is a misdemeanor. A Processor shall not be liable for any violation by a Seller, a Seller's agent, or a purported Seller or agent.

Each violation by a Seller or their agent is a misdemeanor.

[back to top](#)

Junk Dealers

License - Junk Dealers

An entity engaged in the business of buying or selling old metal that is not licensed or engaged as a Processor must obtain a Junk Dealer license from the mayor, supervisor, or licensing authority. Licenses expire on June 30 of each year; license fees are \$5. No entity or partnership with a member who has been convicted of larceny, knowingly receiving stolen property, or violating the Junk Dealer provisions may be licensed as a Junk Dealer.

[back to top](#)

Recordkeeping - Junk Dealers

Junk Dealers must record the following information for purchases of any pig or pigs of metal, bronze or brass castings or parts thereof, sprues or gates or parts thereof, copper wire or brass car journals, or metal beer kegs:

- A statement of when, where, and from whom the Seller obtained the property;
- Seller's identity as verified by a government ID card and residence address;
- The Seller's driver's license number or information from a government-issued photo ID card, if any, "and otherwise such description as will reasonably locate the same";
- Seller's occupation;
- Name of Seller's employer and place of employment or business;
- Copy of the government-issued photo ID card

The Hold - Dealer provision requires that the hold tag record the date, hour, and place of the transaction and the weight of the material, but such is not required for the record.

[back to top](#)

Retention - Junk Dealers

Junk Dealers must retain the copy of the Seller's photo ID for 2 years; retention for the other records is not specified.

[back to top](#)

Reporting - Junk Dealers

Junk Dealers must report the record information "forthwith" to the office of the chief of police of a city or village or otherwise in the office of the sheriff of the county where the purchase was made.

[back to top](#)

Hold - Junk Dealers

A Junk Dealer must tag and hold any item requiring a record for 5 days in a separate and distinct pile, bundle, or package in their usual place of business, with the tag bearing the name and residence of the Seller, the date, hour, and place of the purchase, and the weight thereof.

[back to top](#)

No Purchase from a Child - Junk Dealers

No Junk Dealer or employee may receive or purchase merchandise from a child less than 16 years old, regardless of whether the child acted as an agent or representative of another.

[back to top](#)

Penalties - Junk Dealers

Any violation by a Junk Dealer or their employee, and each false statement made on a record or hold tag, is a misdemeanor, and the person convicted shall forfeit their license to do business, except nothing in the Dealer provisions shall apply to cities of the first class.

[back to top](#)

References and Recent Amendments

Statutes

- [N.Y. GBS Law](#) Article 6-C. Scrap Processors; § 69-e to § 69-h
- [N.Y. GBS Law](#) Article 6. Junk Dealers; § 60 to § 64

[back to top](#)

NORTH CAROLINA

N.C.G.S. Chapter 66, Article 45, Part 3.
Regulation of Sales and Purchases of Metals.
§ 66-420 to § 66-431

North Carolina Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered & Other Definitions](#)
- [Exemptions](#)
- [Receipt and Fingerprinting](#)
- [Recordkeeping](#)
- [Retention & Secure Disposal](#)
- [Inspection](#)
- [Reporting](#)
- [Hold](#)
- [HVAC & Catalytic Converters](#)
- [Prohibited Activities and Transactions](#)
- [Transport of Copper](#)
- [Payment Restrictions](#)
- [Permit](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered & Other Definitions (edited for clarity and conciseness)

"Regulated Metals Property" means all ferrous and Nonferrous Metals.

"Nonferrous Metals" means metals not containing significant quantities of iron or steel, including but not limited to Copper, aluminum other than aluminum cans, aluminum copper mixtures, catalytic converters, lead-acid batteries, and stainless steel beer kegs or containers. Excludes precious metals as defined in the Precious Metal Business Act; § 66-406.(3).

"Copper" means Nonferrous Metals, including but not limited to copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, copper tubing and pipe fittings, and insulated copper wire. Excludes brass alloys, bronze alloys, lead, nickel, zinc, or items not containing a significant quantity of copper.

"Cash Card System" means a system that provides payment in cash or another form, that captures a photograph of the Seller at the time of payment when providing payment in cash, and uses an automated cash dispenser, including but not limited to an ATM.

"Nonferrous Metals Purchaser" is defined as a Secondary Metals Recycler who purchases, gathers, or obtains Nonferrous Metals.

"Secondary Metals Recycler" means an entity engaged in gathering or obtaining metals that have served their original economic purpose, or engaged in converting such metals into raw material products by specified methods not including the exclusive use of hand tools.

[back to top](#)

Exemptions

Exempts purchases of Regulated Metals from a manufacturing, industrial, government, or other commercial vendor that generates or sells such in the ordinary course of its business. Exempts purchases that only involve beverage containers from all but the hold provisions.

[back to top](#)

Receipt and Fingerprinting

Recyclers must provide a receipt for all purchases of Regulated Metal, issued to and signed by the Deliverer. The Recycler must be able to provide documentation on the employee who completed the transaction.

For transactions involving catalytic converters detached from a vehicle or central air conditioner evaporator coils or condensers, the Deliverer shall place a clear ink index fingerprint next to their signature on the receipt. A Recycler may elect to obtain the fingerprint electronically. If the Recycler has a copy of the Deliverer's index fingerprint on file the Recycler may reference the copy after examining the Deliverer's photo ID.

[back to top](#)

Recordkeeping

Recyclers must collect the following information for any purchase of regulated metals property by the Recycler:

- The name and address of the Secondary Metals Recycler;
- The name, initials, or other ID of the individual entering the information;
- The date of the transaction;
- The weight of the regulated metals property;
- The description of the property in accordance with the custom of the trade;
- The physical address where the Seller obtained the property;
- The date when the Seller obtained the property;
- A statement signed by the Seller or the Seller's agent certifying they have the lawful right to sell and dispose of the property;
- The amount paid for the property;
- The name and address of the Vendor of the property;
- The license plate number, make, model, and color of the delivery vehicle;
- A photocopy or electronic scan of the government-issued photo ID of the Deliverer. If the Recycler has a copy of the valid photo ID of the Deliverer on file, the Recycler may reference the copy after verifying the photo ID has not expired.
- A copy of the transaction receipt (or the original receipt if a copy is not legible).
- Video or digital photo of the Seller with the property delivered by the Seller.

[back to top](#)

Retention & Secure Disposal

Records must be retained for 2 years. Records must be securely maintained and destroyed in a manner that protects the identity of the property owner, seller, and purchaser.

[back to top](#)

Inspection

During usual and customary business hours a law enforcement officer may inspect purchased Regulated Metals in the Recycler's possession and any records required by law.

[back to top](#)

Reporting

If requested by the sheriff or chief of police of the county or municipality where the Recycler is located, a Recycler shall make the required receipts available for pickup each regular workday. Law enforcement may also request receipts be electronically transferred directly to the law enforcement agency.

[back to top](#)

Hold

15 calendar days hold on Nonferrous Metal upon receipt of a written hold notice from a law enforcement officer specifically identifying those items that are believed stolen and subject to the notice. The law enforcement officer may release the metals early or renew the hold for an additional 30 days.

Automatic 7 day hold on Nonferrous Metals purchased by a Recycler convicted of a felonious violation of this article, [N.C.G.S. §14-71](#) (receiving stolen goods), [§14-71.1](#) (possessing stolen goods), or [§14-72](#) (larceny of property).

[back to top](#)

Prohibited Activities and Transactions

A Recycler shall not purchase (see Exemption section for exempt Sellers):

- Nonferrous Metals unless the Recycler holds a valid permit;
- Regulated Metals Property the Recycler knows or reasonably should know is stolen;
- Any Regulated Metal marked with the initials or other identification of a telephone, cable, electric, water, or other public utility, or any brewer;
- Any utility access cover;
- Any street light pole or fixture;
- Any road or bridge guard rail;
- Any highway or street sign;
- Any water meter cover;
- Any metal beer keg, including any made of stainless steel that is clearly marked as being property of the beer manufacturer;
- Any traffic directional or control sign;
- Any traffic light signal;
- Any Regulated Metal marked with the name of a government entity;
- Any railroad track components or signs, and any property owned by a railroad and marked and otherwise identified as such;
- Any historical marker or any grave marker or burial vase.

[back to top](#)

HVAC & Catalytic Converters

A Recycler may not purchase central air conditioner evaporator coils or condensers, or catalytic converters that are not attached to a vehicle, except from a company, contractor, or individual in the business of installing, replacing, maintaining, or removing such items.

[back to top](#)

Transport of Copper

It is unlawful to transport more than 25 lbs. aggregate of Copper unless one of the following applies: the vehicle is used in the ordinary course of business for transporting Nonferrous Metals; the person transporting or possessing the Copper possess and presents a valid bill of sale for the Copper; or a law enforcement officer determines the Copper is not stolen and the person has rightful possession.

[back to top](#)

Payment Restrictions

No cash for Copper, or for purchases of Nonferrous Metal exceeding \$100 per transaction. A Nonferrous Metals Purchaser may only make one cash payment per day to any individual, business, corporation, or partnership. For transactions exceeding the cash thresholds, payment must be by check, money order, or a Cash Card System. Recyclers may not operate a business that cashes checks at a fixed site where the Recycler purchases Regulated Metal Property.

[back to top](#)

Permit

A Recycler must receive an annual nonferrous metals purchase permit from the county sheriff for each fixed site at which Nonferrous Metals are purchased. An applicant must have a fixed site in the county, declare on a form that the applicant is informed of the law and will comply, does not have a permit that has been revoked due to noncompliance, and has not been convicted of more than 3 violations of the law. The sheriff shall not charge a fee for the permit. A permit is valid for 12 months.

[back to top](#)

Penalties

Unless covered by another provision of law with a greater punishment, knowing and willful violation is: for a 1st offense, a Class 1 misdemeanor; for a 2nd or subsequent: a Class I felony. If the owner or the employees of a fixed site are convicted in aggregate of 3 or more violations within a 10 year period, the permit associated with that fixed site shall be immediately revoked for 6 months. Any attempt to circumvent by procuring a permit through a family member shall extend the revocation period for an additional 18 months.

The court may order a defendant to make restitution to the Recycler or property owner as appropriate for any damage or loss caused by a defendant arising from certain violations.

Vehicles used or intended for use to convey, transport, or facilitate such for unlawfully obtained Regulated Metals Property are subject to forfeiture according to the provisions of §66-431 if the violation involved is a felony.

[back to top](#)

Preemption

A county or municipality shall not enact any local law, ordinance, or regulation regulating Secondary Metals Recyclers or Regulated Metals Property that conflicts with the law. Existing conflicting local laws are preempted.

[back to top](#)



Voice of the Recycling Industry™

ISRI is the voice of the recycling industry, promoting safe, economically sustainable and environmentally responsible recycling through networking, advocacy and education.

References and Recent Amendments

[N.C.G.S. Chapter 66, Article 45, Part 3](#). Regulation of Sales and Purchases of Metals. § 66-420 to § 66-431

Recent Amendments

- [2013 North Carolina SB 583](#)

[back to top](#)

NORTH DAKOTA

N.D. Cent. Code Tit. 51, Ch. 35
Purchases by Scrap Metal Dealers
§ 51-35-01 to § 51-35-04

North Dakota Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Payment Restriction](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions

"Scrap Metal" means ferrous or nonferrous metals purchased primarily for reuse or recycling, including metals combined with other materials at the time of purchase or acquisition, and including insulated and uninsulated wire and cable. Scrap metal does not include automobiles, automobile hulks, or any aluminum food or beverage containers.

"Ferrous Metals" means those metals that will attract a magnet, and includes alloys of those metals.

"Nonferrous Metals" means those metals that will not normally attract a magnet, including copper, brass, aluminum, bronze, lead, zinc, platinum, nickel, and includes alloys of those metals.

"Scrap Metal Dealer" means a person engaged in the business of purchasing, selling, trading, or bartering scrap metal, and includes all employees of the scrap metal dealer.

[back to top](#)

Exemptions

Exempts purchases from:

- Another Dealer who regularly conducts scrap metal business in North Dakota;
- Government agencies;
- Persons regularly engaged in the business of manufacturing metals or regularly engaged in the business of selling metals at retail or wholesale, including scrap processing or manufacturing that produces byproducts for scrap;
- Persons regularly engaged in the generation or transmission of electricity, or in telephone, telegraph, or cable communications, if they provide the Dealer with a bill of sale or other written evidence of ownership of the Scrap Metal purchased.

[back to top](#)

Recordkeeping

Dealers shall keep records of receipts of Scrap Metal worth over \$25 with the following:

- The Date, Time, and Place of each purchase or transaction;
- Description of the Scrap Metal received and the weight and type;
- Amount paid and the manner of payment, including check or electronic transfer;
- Name and address of the Seller or Deliverer; and
- Copy of the Seller or Deliverer's valid government-issued identification card or driver's license with their full name, photograph, date of birth, and signature.

[back to top](#)

Retention

Dealers must retain records for 7 years after the date of each purchase at their business premises or other reasonably available location within North Dakota.

[back to top](#)

Inspection

A Dealer's premises must be kept open for inspection by law enforcement officers during regular business hours. Business records and business inventory must also be open for inspection at all times during reasonable business hours or "at reasonable times if ordinary hours of business are not kept".

Before conducting an inspection an officer must inform a Dealer that they are a law enforcement officer and the purpose of the inspection. Officers must comply with all of a Dealer's reasonable and customary safety requirements. A Dealer may also require an officer to sign an inspection log with their name and serial or badge number and the date, time, and purpose for the inspection.

[back to top](#)

Payment Restriction

No cash payments over \$1,000; payment for such must be by check or electronic transfer.

[back to top](#)

Penalties

A Dealer who willfully fails to comply with the Act is guilty of a class B misdemeanor.

A Dealer who willfully buys, receives, possesses, or conceals stolen Scrap Metal:

- Under \$500 in value is guilty of a class A misdemeanor;
- Exceeding \$500 in value is a class C felony.

[back to top](#)

Preemption

Provisions shall take precedence over and supersede any local ordinance adopted by a political subdivision that regulates scrap metal transactions.

[back to top](#)

References and Recent Amendments

[N.D. Cent. Code Title 51, Ch. 35](#) Purchases by Scrap Metal Dealers; § 51-35-01 to § 51-35-04

Recent Amendments

- [2013 North Dakota SB 2151](#) (effective May 1, 2013)

OHIO

Ohio Revised Code Title 47, Chapter 4737
Secondhand Dealers; Junk Yards
§ 4737.01 to § 4737.99

Railroad Scrap:
Ohio Rev. Code Title 49, Ch. 4973
§ 4973.13 to § 4973.16

Ohio Admin Code Ch. 4501:5-3
Scrap Metal Dealers

Ohio Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Do Not Buy From Individual List](#)
- [Recordkeeping](#)
- [Secondhand Dealers/Peddlers](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Purchase Restrictions](#)
- [Purchase Restrictions - Railroad Scrap](#)
- [Hold - Railroad Material](#)
- [Notice to Sellers](#)
- [Payment Restrictions](#)
- [State Database/Registry](#)
- [Registration](#)
- [Licensing of Junk Yards & Scrap Facilities](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Recyclable Materials" means the following materials that are not special purchase articles, as listed in § 4737.04.(C)(5):

- "Number one copper": clean copper pipe, wire, or other number one copper that does not have solder, paint, or coating;
- "Number two copper": unclean copper pipe, wire, or other number two copper;
- "Sheet copper": copper roofing, gutters, downspouts, and other sheet copper;
- "Insulated copper wire";
- "Aluminum or copper radiators";
- "Red brass": red brass valves and other red brass;
- "Yellow brass": yellow brass fixtures, yellow brass valve and fitting, ornamental brass, and other yellow brass;
- "Aluminum sheet";
- "Aluminum extrusions": aluminum bleachers, benches, frames, pipe, and other aluminum extrusions;
- "Cast aluminum": aluminum grills, lawnmower decks, motor vehicle parts and rims, and other cast aluminum;
- "Clean aluminum wire";
- "Unclean aluminum wire";
- "Aluminum exteriors": aluminum siding, gutters and downspouts, shutters, trim, and other aluminum exterior items;
- "Contaminated aluminum";
- "Stainless steel": sinks, appliance housing, dishes, pots, pans, pipe, and other items made out of stainless steel;

- "Large appliances": consumer and other appliances;
- "Steel structural": all structural steel such as I-beams, trusses, channel iron, and similar steel from buildings;
- "Miscellaneous steel": steel grates, steel farm machinery, steel industrial machinery, steel motor vehicle frames, and other items made out of steel;
- "Sheet irons": bicycles, motor vehicle body parts made of iron, and other items made using sheet iron;
- "Motor vehicle nonbody parts": motor vehicle batteries, radiators, and other such;
- "Catalytic converters";
- "Lead";
- "Electric motors."
- "Electronic scrap": any consumer or commercial electronic equipment such as computers, servers, routers, video displays, and similar products.

"Special Purchase Article" includes all of the following:

- Beer kegs;
- Cable, wire, electrical components, and other equipment used in providing cable service or any utility service, including coverings, housings, or enclosures;
- Grave markers, sculptures, plaques, and vases made out of metal, the appearance of which suggests that the articles have been obtained from a cemetery;
- Guard rails for bridges, highways, and roads; highway and street signs; street light poles and fixtures; worker access hole covers, water meter covers, and other similar types of utility access covers; traffic directional and control signs and light signals, metal marked with the name of a political subdivision of the state, and other metal articles that are purchased and installed for use upon authorization of the state or any political subdivision of the state;
- Historical, commemorative, and memorial markers and plaques made out of metal;
- Grocery carts;
- Metal bossies;
- Railroad material, including journal brasses, rail spikes, rails, tie plates, frogs, and communication wire;
- Metal trays, merchandise containers, or similar transport containers used as a means for the bulk transportation, storage, or carrying of retail containers of milk, baked goods, eggs, or bottled beverage products; and
- "Burnt Wire," which is any coated metal wire that has been smelted, burned, or melted thereby removing the manufacturer's or owner's identifying marks.

Railroad Scrap, as used in § 4973.13, refers to worn or scrap metal, iron, brass, or other metal owned by a company operating a railroad, including worn or used links, pins, journal bearings, or other worn, used, or detached appendages of railroad equipment, or scrap metal of iron, brass, or steel appertaining to such equipment or to a railroad track.

"Bulk Merchandise Container" means a plastic or wooden carrier or holder used by a manufacturer or distributor to transport merchandise to wholesale and retail outlets.

"Common Recycled Matter" means bottles and other containers made out of steel, tin, or aluminum and other consumer goods that are metal that are recycled by individual consumers and not in the bulk or quantity that could be supplied or recycled by large business establishments. It excludes a metal tray used by a product producer, distributor, retailer, or agent as a means for the bulk transportation, storage, or carrying of retail containers of milk, baked goods, eggs, or bottled beverage products.

"Scrap Metal Dealer" means the owner or operator of a business that purchases or receives scrap metal for the purpose of sorting, grading, and shipping metals to third parties for direct or indirect melting into new products.

"Personal Identification Card" means a current and valid driver's license, military ID card, or a state ID card with a photograph.

[back to top](#)

Exemptions

The following are exempt from the law under § 4737.043:

- Donations of articles to nonprofit organizations or any other person, as long as the donator receives no payment or any other valuable consideration;
- Sales or donations of Common Recycled Matter;
- Sales between a Dealer and a 501(c)(3) organization that collects for its own fundraising scrap ferrous and nonferrous metals for recycling rather than disposal;
- Sales between a Dealer and a governmental unit or another business, including a demolition company, public utility company, or another Dealer, that in the course of providing services or maintaining its property, generates scrap ferrous and nonferrous metals for recycling rather than disposal. The government unit or business must also provide proof of one of the following:
 - For government units, proof that reference to the government unit as a bona fide unit of government can be readily found by the public;
 - For a business, one of the following:
 - The business is registered with the Secretary of State;
 - The business has been issued a license under §5739.17; or
 - "The business advertises its services in a newspaper of general circulation once a week for not less than six consecutive months or provides a receipt showing payment for such advertising, a telephone book, electronic media that is available to the public, or some other type of media that is owned and operated by a person other than the business and, if an individual operates the business, the individual advertising the business has a specific place of business that is not the individual's permanent home residence."
- Sales between a Dealer and a person whose primary business is to create products that result in bulk quantities of metal used for recycling rather than disposal;

- Sales of catalytic converters between a Dealer and a Motor Vehicle Dealer as defined in §4517.01

Transactions of Bulk Merchandise Containers involving plastic containers that are not marked with a company name or logo or less than 10 wooden containers at a time are exempt from the Recordkeeping provision.

Junkyards and Scrap Processing Facilities that are zoned industrial, or are not zoned but are used for industrial activities, are exempt from the Licensing provision.

[back to top](#)

Do Not Buy From Individual List

Unless a transaction is specifically exempted under [§ 4737.043](#) (see [Exemptions](#) provision for list), before purchasing or receiving articles from any person a Dealer must verify that they do not appear on either the searchable electronic list the Dealer receives from a law enforcement agency with jurisdiction or the [Ohio Dept. of Public Safety list](#) (must login to access). A Dealer must check whether:

- The person's state driver's license or state issued identification card number match the same information contained on the list; or
- The person's last name, first name, and date of birth match the same information contained on the list.

Once a person is deemed to be on the list, a Dealer may refer to secondary personal identifiers that are in plain visible sight (included in the DNB listing) to confirm the person matches the person identified on the list.

An individual included in the list may request their name be removed by filing an application with the law enforcement agency if the individual has not been convicted of a misdemeanor theft offense within the prior 3 years or a felony theft offense within the prior 6 years.

[back to top](#)

Recordkeeping

Dealers must retain a book or electronic file with a record in numerical order of all articles purchased or received in the course of the Dealer's daily business. [Ohio Admin Code 4501:5-3-03](#) requires all photographs taken as part of the record include a valid date and time stamp in a mm/dd/yyyy and 00:00 standard time format, be legible and clearly display the content being photographed, be in color, be no larger than 1 MB when transmitted for daily reports, and be transmitted as a JPEG. Records must include:

- The Seller's name and residence;
- One of the following:
 - A copy of the Seller's personal ID card; or
 - The Seller's name, address, and photograph decoded and recorded from the metallic strip in the Seller's ID card by an electronic device;
- A photograph of the Seller taken at the time of purchase;
- The Date and Time the articles were purchased or received;

- The weight of the articles as determined by a licensed commercial scale;
- The license plate number and state of issue of the Seller's motor vehicle;
- A description of the articles, consisting of:
 - For metal articles that are not Recyclable Materials, a full and accurate description of each article purchased or received by the Dealer, including any identifying letters or marks and the name and maker of the article if known;
 - For Recyclable Materials that are not Special Purchase Articles, the relevant category codes listed in the Materials Covered and other Definitions provision of this summary [§4737.04.(C)(5) of the law]; or
 - For Special Purchase Articles, the relevant category from the Materials Covered provision of this summary [§4737.04.(A)(2) of the law].

A Dealer in the business of purchasing, reselling, exchanging, recycling, shredding, or receiving bulk merchandise containers shall not purchase or receive plastic bulk merchandise containers that are marked with a company name or logo, or more than nine wooden bulk merchandise containers, from any other person at one time, unless the dealer maintains a record book or electronic file with entries numbered consecutively of all containers purchased or received.

Records must contain the following:

- The Seller's name and residence;
- A copy of the Seller's personal identification card;
- A description of the containers, including the number purchased or received;
- The Date and Time the Dealer purchased or received the containers;
- The license plate number and state of issue of the Seller's motor vehicle;
- If the Dealer is in the business of reselling bulk merchandise containers, a photograph of each container recorded and of each Seller, taken at the time of the transaction.

For Special Purchase Articles or for a Bulk Merchandise Container subject to the record requirements, a Dealer must additionally record the following and pay by check, with payment withheld for two days after the purchase:

- A photograph of each Special Purchase Article or Bulk Merchandise Container;
- Proof that the Seller owns the item.

[back to top](#)

Secondhand Dealers / Peddlers

A person other than a Scrap Metal Dealer who transacts in secondhand articles other than special purchase articles, scrap iron, and scrap metal, shall post a sign in a conspicuous place upon their place of business with the person's name and occupation. The person shall keep a consecutively numbered book or electronic record of purchases with the following:

- A description of the items purchased or received;
- The Seller's name, description, and residence;
- The Day and Time of the transaction;
- One of the following:
 - A copy of the Seller's personal ID card; or
 - The Seller's name, address, and photograph decoded and recorded from the metallic strip in the Seller's ID card by an electronic device.

A peddler or person who goes about with a wagon to purchase or obtain articles, and who does not have a place of business in a building, need not retain articles for 30 days before selling them if they report their records weekly with the mayor of the municipal corporation where they sell the articles they have obtained, along with a description of the articles sold, the purchaser, and the purchaser's place of business.

[back to top](#)

Retention

Until the state registry is operational, Dealers must retain records for at least 1 year after the transaction date, except photos need only be retained for 60 days. Once the registry is operational, records shall only be retained for 60 days.

[back to top](#)

Inspection

Records shall be open for inspection by the representative of any law enforcement agency, railroad police officers, and the Director of Public Safety or the Director's designated representative during all business hours. A law enforcement agency may inspect any photographic records collected and maintained by a scrap metal dealer of either yard operations or individual transactions.

If an asserted owner of a Special Purchase Article or Bulk Merchandise Container or their agent provides proof of having filed a stolen property report, a Dealer must make records of Special Purchase Articles purchased or received after the date of the theft available for inspection, except the Dealer must withhold the name of the Seller and the amount paid.

[back to top](#)

Reporting

[Ohio Admin. Code Ch. 4501:5-3-03](#) requires a daily electronic report by 12 PM EST of all retail transactions during the previous day using the Ohio Dept. of Public Safety [Scrap Metal & Bulk Merchandise Container Dealers page](#). Reports must be submitted in English by manually entering the transactions, uploading prepared transaction reports manually, or utilizing independent software capable of transmitting them in accordance with the rules. Photographs must include a valid date and time stamp in a mm/dd/yyyy and 00:00 standard time format, be legible and clearly display the content being photographed, be in color, be no larger than 1 MB when transmitted, and be transmitted as a JPEG. Records submitted to any law enforcement agency, railroad police officer, or the Director or Director's representative are not public records.

Upon request, Dealers shall provide a copy of records to any law enforcement agency, railroad police officer, or the Director or Director's representative.

A person or their agent who claims to own a stolen article that may be identified in the submitted records and provides proof of having filed a stolen property report may request those records held by a law enforcement agency. The law enforcement agency shall redact information that reveals the name of the Seller, the price the Dealer paid, or the estimated value of any article the Dealer received. The law enforcement agency shall determine which records to provide based upon the time period that the alleged theft is reported to have taken place, and may charge or collect a fee for providing records.

[back to top](#)

Purchase Restrictions

No Dealer shall purchase or receive:

- Any metal articles from a Seller who refuses to show their personal ID card or to allow the Dealer to take a photograph as required;
- Any articles from a person on the Do Not Buy From Individual List;
- Any items from a minor or apprentice;
- Any items between 9 PM and 7 AM;
- Any Special Purchase Articles or Bulk Merchandise Containers from a Seller under 18 years old;
- More than 1 catalytic converter per day from the same person except from a motor vehicle dealer as defined in § 4517.01

[back to top](#)

Purchase Restrictions - Railroad Scrap

Under § 4973.13 to § 4973.16, Railroad Scrap may only be sold by the superintendent, general managing agent, or receiver of a company operating a railroad, in quantities of 1 ton or more. The Seller must deliver the purchaser a bill of sale of such metal and retain a copy for their office. The Purchaser shall ascertain whether the Seller lawfully owns the Railroad Scrap using the bill of sale or otherwise.

[back to top](#)

Hold - Railroad Material

Automatic 30 day hold on Railroad Material, other than purchases and sales under § 4973.13 to § 4973.16.

[back to top](#)

Notice to Sellers

Dealers must post a notice in a conspicuous place on their premises notifying Sellers of the penalties applicable to any person who:

- Provides a false personal ID card to the Dealer;
- Provides any other false information for the records with the purpose to defraud; or
- Violates §2913.02.

[back to top](#)

Payment Restrictions

Dealers must pay for Special Purchase Articles and Bulk Merchandise Containers by check and must withhold payment for 2 days after purchase.

[back to top](#)

State Database/Registry

By January 1, 2014, the Director of Public Safety must develop and implement a secure database for use by law enforcement agencies that is capable of all of the following:

- Receiving and storing daily reports from Scrap Metal Dealers, Bulk Merchandise Dealers, and other parties required to report secondhand transactions;
- Providing secure search capabilities to law enforcement agencies;
- Creating a link and retransmission capability for receipt of ISRI scrap theft alerts for transmission to Dealers and law enforcement agencies;

- Making the Do Not Buy From Individual Lists available through an electronic searchable format for individual law enforcement agencies and for Dealers;
- Providing, without charge, interlink programming enabling the transfer of information to dealers.

A scrap metal dealer or bulk merchandise container dealer may search, modify, or update only the dealer's own business data contained within the registry. All registration fees and fees from §4737.99(f) shall be used to develop and maintain the registry, and shall be deposited into the Infrastructure Protection Fund.

[back to top](#)

Registration

Dealers must register with the Director of Public Safety. Registrations are valid for one year, with an initial registration fee of \$200 and renewal fees of \$150. A copy of the registration certificate must be prominently displayed. Applicants must provide:

- The name and street address of the Dealer's place of business;
- The name of the primary owner, and the manager if it is not the primary owner;
- The electronic mail address of the business; and
- Confirm the Dealer can electronically send and receive information with the Dept.

[back to top](#)

Licensing of Junk Yards and Scrap Processing Facilities

Junk yards and Scrap Processing Facilities within 1,000 feet of the nearest edge of the right of way of a highway in the interstate or primary system, except in zoned or unzoned industrial areas, must be licensed by the county auditor. Any Yard or Facility within 1,000 feet of a state or county road or 300 feet for a township road must be obscured from view by natural objects or a fence between 6 and 10 feet high which is non-transparent, kept in good order and repair, and with no advertisement other than the name of the person under whose name the license was issued and the nature of the business.

The initial fee for a license is \$25; licenses must be renewed annually for \$10 each year. An applicant must provide the following on an application signed and sworn by the applicant:

- The name and address of the applicant;
- The location of the Junk Yard or Scrap Processing Facility;
- If the applicant is a firm, partnership, or association, the names and addresses of each member;
- If the applicant is a corporation:
 - The date and place of incorporation;
 - The names and addresses of its officers and directors;
- Other such reasonable information

Before a license is issued or renewed and twice annually in addition, the sheriff or, if the sheriff designates, a township police officer or constable, and the chief of police of each municipal corporation shall inspect a Yard or Facility within their jurisdiction for compliance. The official shall, for the purpose of these examinations, have free access to the grounds and buildings used or proposed for use in the conduct of the Yard or Facility activity by the applicant or the licensee.

Such inspections may be made at any time during the licensee's regular work hours, or between 8 AM and 5 PM, Monday through Friday. The Director of Transportation may also inspect junk yards adjacent to state highways and advise the Attorney General of alleged violations.

Owners shall be immediately notified by registered mail of any nonconformity with requirements and have 60 days to conform, after which another inspection will be held. Owners still out of compliance will have their license suspended for 90 days, during which time they may still sell articles, but may not accept articles for future resale. An owner may appeal the suspension or request for another inspection at any time during the 90 days. After 90 days another inspection will be held; if still out of compliance, the license will be revoked and a \$100 tax imposed for each day after revocation that the violation continues.

Licenses may be revoked by the Chief Executive Officer of the Municipality or the County Auditor of the county where the yard or facility is located after reasonable notice and opportunity to be heard for a violation of Chapter 4737, and may not be reissued to the licensee, their husband or wife, or any partnership or corporation of which the licensee is a member, until the licensee is in compliance.

Junkyards and Scrap Processing Facilities that are zoned industrial, or are not zoned but are used for industrial activities as determined by the Director of Transportation, are exempt.

[back to top](#)

Penalties

Unless specified, violations are subject to a \$25 to \$1,000 fine and costs of prosecution.

Accepting items for future resale while a Junk Yard or Scrap Processing Facility's license is suspended is a misdemeanor of the fourth degree.

A violation of the Recordkeeping, Secondhand Dealer, Retention, Inspection, Reporting, Hold, Do Not Buy From Individual List, or Purchase Restrictions provisions, or failure to display a copy of their registration certificate, is:

- 1st offense: misdemeanor of the first degree.
- 2nd offense of one of the listed provisions: felony of the fifth degree, and a court may suspend a Dealer's registration for 90 days.
- 3rd or subsequent offense: felony of the fourth degree, and a court may suspend a Dealer's registration for 90 days.

Acting as a Dealer without registering is a felony of the fifth degree, and the court shall enjoin the person from engaging in the business of a Dealer

A person who receives, purchases, or sells a Special Purchase Article or Bulk Merchandise Container without complying with the applicable rules is guilty of a:

- 1st offense: felony of the fifth degree;
- 2nd or subsequent offense: felony of the 3rd degree

A motor vehicle used in the theft or illegal transportation of metal shall be impounded at a municipal corporation impound lot or another lot utilized for that purpose for:

- 1st offense: 30 to 60 days;
- 2nd or subsequent offense: 60 to 180 days;
- Involving a Special Purchase Article or Bulk Merchandise Container: 90 to 360 days.

An impounded motor vehicle may be recovered from the impound lot at the end of the impound term upon payment of fees.

Under § 4973.14, when the right or title to Railroad Scrap is questioned in a suit, a Dealer must make prima-facie proof of title and the ownership derived from it. If it appears that any of the metals were unlawfully obtained and mixed or confused with other scrap metal it shall be deemed a confusion of goods unless the Dealer establishes a lawful title from or through a railroad company.

Under § 4973.15, a railroad company may claim to be the general owner of and replevy any Railroad Scrap and other metals with which they may have been confused, found in the possession of a person, firm, or company, when there is good reason to believe that such metals or articles were unlawfully taken from such company or its receiver. The officer, agent, or receiver of the railroad company need only state that they believe such metals were unlawfully taken from their company or another company; the other party must prove a right or title to them. In absence of proof the railroad company shall be held to be the general owner, but any other company or receiver may be entitled to a part of the payment for cost and expenses of replevying if they show that part of such metals were unlawfully taken from them. A railroad company that replevies without reasonable cause to believe the property was unlawfully taken is liable for a sum not exceeding double the value of the property, in addition to any damages sustained.

Theft of a Special Purpose Article or Bulk Merchandise Container under §2913 - Theft, unless it involves property valued at \$7,500 or more, or \$1,000 or more stolen from an elderly or disabled person, is a felony of the fifth degree.

Receiving a Stolen Special Purchase Article or Bulk Merchandise Container under § 2913 - Theft, unless it involves property valued at \$7,500 or more, is a felony of the fifth degree

[back to top](#)

Preemption

No political subdivision shall enforce any regulation in conflict with the law. No political subdivision shall enact or enforce a regulation or ordinance requiring a Dealer to tag and hold any scrap metal purchased or received.

The licensing requirements for Junk Yards and Scrap Processing Facilities do not preclude or preempt local law. The industrial exemption for licensing a Yard or Facility does not prohibit the regulation or prohibition of such by municipal corporations.

[back to top](#)

References and Recent Amendments

Statutes

- [Ohio Rev. Code Title 47, Ch. 4737](#): Secondhand Dealers; Junk Yards; § 4737.01 to § 4737.99
- Railroad Scrap: [Ohio Rev. Code Title 49, Ch. 4973](#); § 4973.13 to § 4973.16

Regulations

- [Ohio Admin. Code Ch. 4501:5-3](#) Scrap Metal Dealers

[Ohio Homeland Security - Scrap Metal Scrap Metal Dealers Registration and Login Page](#)

Recent Amendments

- [2013 Ohio HB 51](#)
- [2014 Ohio HB 483](#) (effective June 16, 2014)
- Rules requiring Do Not Buy lists (4501:5-3-01) and daily electronic reporting (4501:5-3-3) are effective as of February 1, 2015

[back to top](#)

OKLAHOMA

Okla. Stat. Title 2, Ch. 1, Art. 11,
Oklahoma Scrap Metal Dealers Act
2 O.S. § 11-90 to 2 O.S. § 11-99
(as amended by 2018 Oklahoma HB 2950)

Oklahoma Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Additional Recordkeeping - Vehicles](#)
- [Additional Recordkeeping - Hold Exemption](#)
- [Special Regulated Items](#)
- [Copper Material](#)
- [Sales to Minors](#)
- [Inspection](#)
- [Reporting](#)
- [Hold](#)
- [Payment Restriction](#)
- [Permit](#)
- [License](#)
- [State Board of Agriculture](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Please Note: Amendments by [2018 Oklahoma HB 2950](#), effective November 1, 2018, are included and noted in this summary.

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metal" means any Copper Material or Aluminum Material or any item listed in 2 O.S. § 11-93.B. (referred to in this summary as Special Regulated Items), offered for sale or resale or purchased by any person, firm or corporation.

"Copper Material" means the metal copper or copper alloy or anything made of either copper or copper alloy;

"Aluminum Material" means the metal aluminum or aluminum alloy or anything made of either aluminum or aluminum alloy, except aluminum beverage cans;

Special Regulated Items listed in 2 O.S. § 11-93.B. are as follows:

- Manhole covers, street signs, traffic signs, traffic signals including their fixtures and hardware, or any other identifiable public property;
- Electric light poles, including their fixtures and hardware, electric transmission or distribution cable and wires, and any other hardware associated with electric utility or telecommunication systems;
- Highway guard rails;
- Funeral markers, plaques or funeral vases;
- Historical markers or public artifacts;
- Railroad equipment;
- Any metal item marked with any form of the name, initials or logo of a governmental entity, utility, cemetery or railroad;

- Condensing or evaporating coil from a heating or air conditioning unit;
- Aluminum or stainless steel containers or bottles designed to contain fuel;
- Metal beer kegs clearly marked as being the property of the beer manufacturer;
- Metal bleachers or other seating facilities used in recreational areas or sporting arenas;
- Automotive catalytic converters;
- Plumbing or electrical fixtures;
- Tools;
- Machinery or supplies commonly used in the drilling, completing, operating or repairing of oil or gas wells; and
- Stainless steel fittings and fixtures commonly used in the operation of car wash facilities.

Vehicles are not defined (and are not included in the definition of Scrap Metal) but are subject to special recordkeeping requirements and payment restrictions.

"Scrap Metal Dealer" means any person, firm or corporation being an owner, keeper or proprietor of a retail or wholesale business which buys, sells, salvages, processes or otherwise handles scrap metal materials regulated by the provisions of this act;

"Exempted Seller" means any person, firm, corporation or municipal corporation which constructs, operates or maintains electric distribution and transmission or communications facilities; or any person, firm or corporation that produces or otherwise acquires any Scrap Metal in the normal course of business as a:

- Mechanical, electrical or plumbing contractor licensed to do business in this state,
- Scrap Metal Dealer (Standard Industrial Classification Codes 5051 or 5093), licensed pursuant to the provisions of this act,
- Holder of a farm-use tax permit,
- Manufacturer,
- Distributor, or
- Retailer.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry and its employees, officers and divisions.

[back to top](#)

Exemptions

Exempts sales and purchases of aluminum beverage cans for recycling purposes.

Transactions between Dealers and licensed automotive dismantlers and parts recyclers are exempt from the recordkeeping required for transactions involving vehicles.

Exempted Sellers are exempt from the Hold provision, Additional Recordkeeping - Hold Exemption provision, restrictions on the sale or purchase of Copper Material, and the \$1,000 cash transaction threshold for Special Regulated Items.

[back to top](#)

Recordkeeping

Every Dealer shall keep a separate book, record, or other electronic system to record and maintain the following from any Seller of any amount of Scrap Metal. Political subdivisions may *designate* the reporting methods and the format of records, either written, electronic, or internet-based. *The Department shall designate an internet-based reporting method that applies to all geographic areas of the state that are not subject to a local designation for internet reporting.* A retention period is not specified. *(italicized text added by HB 2950)*

- A legible photocopy of the Seller's government *provided* photo ID, *issued by the U.S. government, Oklahoma, or any other state of the U.S.,* that contains the Seller's name, address, date of birth, weight, and height *(italicized text added by HB 2950)*;
- License tag number and description of Seller's vehicle if used to transport material;
- Date and Place of the transaction;
- Transaction number as provided by the Dealer;
- Description of the items sold and weight of the items as required;
- Whether the scrap metal is in wire, cable, bar, rod, sheet, or tube form;
- The Seller's (or, for a minor, the parent or guardian's) written declaration of ownership containing the Seller's signature, to appear on the bill of sale or transaction ticket in the following form:

“I hereby affirm under penalty of prosecution that I am the rightful owner of the hereon described merchandise; or I am an authorized representative of the rightful owner and affirm that I have been given authority by the rightful owner to sell the hereon described merchandise.

Signature”

- If Scrap Metal has any insulation on it, the names and addresses of the entities from whom the Seller purchased or obtained the materials;
- If apparent, the manufacturer name and serial number of each Scrap Metal item;
- If the Seller is a minor, the written consent to the purchase of a parent or guardian.

[back to top](#)

Additional Recordkeeping - Vehicles

A Dealer purchasing a vehicle from a Seller who is not a licensed automotive dismantler or parts recycler must record the information required for Scrap Metal as well as:

- The make, model, license tag number and vehicle identification number;
- The title of the vehicle or a certificate of ownership form, as approved by the Oklahoma Tax Commission and available at the Tax Commission or through a motor license agent.

(added by HB 2950) A Dealer shall not provide payment for a vehicle until the certificate of ownership has been submitted to the Oklahoma Tax Commission or a motor license agent, and the vehicle is determined not to be stolen. Does not apply to transactions between Dealers and licensed automotive dismantlers and parts recyclers.

[back to top](#)

Additional Recordkeeping - Hold Exemption

For purchases of 35 pounds or more of materials that **do not contain** a manufacturer's serial number, a Dealer may avoid the 10 day automatic hold requirement if they additionally record digital images that clearly identify the following in JPEG format (*HB 2950 changes from a minimum resolution of 640 x 480 pixels to "clearly identifies"*):

- Digital image of the items purchased;
- Digital image of the Seller;
- A copy of the bill of sale;
- A copy of the Seller's photo ID.

[back to top](#)

Special Regulated Items

Dealers may not purchase Special Regulated Items (see summary definition or 2 O.S. § 11-93.B. of the Act) without obtaining proof that:

- The Seller owns or is authorized to sell the property, by evidence of a receipt of purchase or a bill of sale for the property; or
- Obtaining proof the Seller is an Exempted Seller.

[back to top](#)

Copper Material

Except for sales by or purchases from Exempted Sellers, it shall be unlawful for any person to sell or purchase the following:

- Copper Material or copper wire from which the actual or apparent insulation or other coating has been burned, melted or exposed to heat or fire resulting in melting some or all of the insulation or coating.
- (*added by HB 2950*) Copper wire that is 4-gauge or larger in size.

(*added by HB 2950*) Exempted Sellers must provide documentation of their Exempt Seller status. If requested by a law enforcement agency where the purchase was made, a Dealer must transmit the documentation to the agency. The documentation may be kept as permanent record and made available for public inspection

[back to top](#)

Sales to Minors

A Dealer may not purchase any item from a minor without first obtaining the written consent of the minor's parent or guardian, to be kept with the transaction record.

[back to top](#)

Inspection

Records required by the act and Scrap Metal subject to the Hold provision shall be made available at any time to any person authorized by law for such inspection.

[back to top](#)

Reporting

If requested by a law enforcement agency, a Dealer shall report in writing the required record for all purchases of Scrap Metal within 48 hours. Political subdivisions may prescribe the reporting methods and the format of records, either written, electronic, or internet-based. *The Department shall designate an internet-based reporting method that applies to all geographic areas of the state that are not subject to a local designation for internet reporting.* A retention period is not specified. *(italicized text added by HB 2950)*

(added by HB 2950) For sales or purchases of material covered by the Copper Material provision, Exempted Sellers must provide documentation of their Exempt Seller status. If requested by a law enforcement agency where the purchase was made, a Dealer must transmit the documentation to the agency. The documentation may be kept as permanent record and made available for public inspection

(added by HB 2950) A Dealer shall not provide payment for a vehicle until the certificate of ownership has been submitted to the Oklahoma Tax Commission or a motor license agent, and the vehicle is determined not to be stolen. Does not apply to transactions between Dealers and licensed automotive dismantlers and parts recyclers.

[back to top](#)

Hold

Unless the Seller is an Exempted Seller, 10 day automatic hold from the date of purchase for purchases of 35 pounds or more of Scrap Metal containing a manufacturer's serial number or other unique label or mark. Purchases of 35 pounds or more that do not contain a manufacturer's serial number shall be held in the same manner unless the Dealer collects the information required by the Additional Recordkeeping - Hold Exemption provision.

[back to top](#)

Payment Restriction

\$1,000 cash transaction threshold for Special Regulated Items unless the Seller is an Exempted Seller. Payment for transactions that exceed the threshold shall be by check, payable only to the Seller who provided identification for the transaction record.

(added by HB 2950) A Dealer shall not provide payment for a vehicle until the certificate of ownership has been submitted to the Oklahoma Tax Commission or a motor license agent, and the vehicle is determined not to be stolen. Does not apply to transactions between Dealers and licensed automotive dismantlers and parts recyclers.

[back to top](#)

Permit

A Dealer must obtain a sales tax permit as provided by 68 O.S. § 1364 from the Oklahoma Tax Commission for each Scrap Metal Yard they own or operate. The Commission shall maintain a list, available for public inspection, of Dealers to whom permits have been issued, and may promulgate rules necessary to implement the provisions.

[back to top](#)

License

Beginning November 1, 2013, Dealers must receive a separate Scrap Metal Dealer license for each business location from the Department. The Department may conduct an investigation to determine the fitness of the applicant, including requiring a national criminal history background check. An applicant must provide, in addition to the \$100 application fee, a \$100 investigation fee, and the cost of a national background check, the following information:

- If an individual, their full name and place of residence;
- If a firm, corporation, or other legal entity, the full name, place of residence, and position of the individual filing on behalf of the entity;
- The business address;
- Legal proof of ownership, lease agreement, or contract for the business location;
- Proof of a dedicated telephone line for the location;
- Proof of a general liability insurance policy for the location;
- Proof of a current discharge permit;
- Whether the person has been previously convicted or pled guilty or nolo contendere to any felony or misdemeanor involving moral turpitude or dishonesty; and
- Any other information the Department requires to determine if the Dealer is prohibited from being issued a license.
- A full set of fingerprints
- A photograph

A Scrap Metal Dealer license is valid for 1 year. Licenses may be renewed within 60 days of the expiration date after another national criminal history background check and payment of a \$100 renewal fee.

[back to top](#)

State Board of Agriculture

The State Board of Agriculture may exercise all incidental powers and create and distribute rules, procedures, and forms needed to implement, administer, and enforce the Oklahoma Scrap Metal Dealers Act.

[back to top](#)

Penalties

Unless otherwise provided, a violation is a:

- 1st offense: misdemeanor punishable by up to \$2,500 fine per offense;
- 2nd offense: misdemeanor punishable by up to \$5,000 fine per offense or up to 6 months imprisonment in the county jail;
- 3rd or subsequent: felony punishable by up to \$10,000 fine per offense &/or up to 2 years imprisonment by the Department of Corrections.

Acting as a Dealer without a Scrap Metal Dealer License or required sales tax permit is a misdemeanor punishable by up to \$500 fine per day of operation in violation.

Knowingly providing false information for records is a felony punishable by up to a \$5,000 fine and/or up to 2 years imprisonment by the Department of Corrections.

A person convicted of purchasing or selling burnt copper material or copper wire in violation of the provision shall be deemed guilty of a:

- 1st offense: misdemeanor punishable by up to \$2,500 fine;
- 2nd or subsequent: felony punishable by up to \$5,000 fine &/or up to 2 years imprisonment by the Department of Corrections.

Each Dealer convicted of a violation shall be reported to the Oklahoma Tax Commission. The Commission may cancel or suspend a Dealer's sales tax permit for up to 30 days for any violation or refuse the issuance, extension, or reinstatement of a permit. The Commission must revoke the sales tax permit or refuse the issuance, extension, or reinstatement of any person convicted of 3 separate violations. Upon cancellation of a permit, the Dealer or any firm, corporation, or other legal entity under their direct control shall not be eligible for a permit for 1 year afterwards. Before suspending, cancelling, or refusing a permit, the Commission must grant a holder or applicant 10 days' notice of a hearing before the Commission granting the person an opportunity to show cause why the action should not be taken. The Commission may suspend a permit or prohibit the applicant from doing business pending a final hearing. If an appeal is taken, the Dealer must post a \$5,000 bond to continue operating pending the outcome of the appeal.

The Department may suspend, cancel, revoke, or refuse reissuance of a Dealer's license after the Dealer has an opportunity for a public hearing for the following:

- Engages in fraud or deceit in obtaining or renewing a license;
- Acts as a Dealer in Oklahoma without a license;
- Aids or abets another person in acting as a Dealer without a license; or
- Violates any provision of the Oklahoma Scrap Metal Dealers Act.

After notice and opportunity for a hearing, if the Department finds a person in violation of the Act or a rule or order pursuant to the Act, the Department may assess an administrative penalty of \$100 to \$10,000 for each violation. Each action or each day a violation continues may constitute a separate and distinct violation. The Department may also apply to district court and obtain a temporary or permanent injunction against anyone who violates the Act and has the authority to obtain or impose civil monetary penalties on violators. Nothing shall preclude the Department from seeking penalties in district court in the maximum amount allowed by law. Penalties in an administrative proceeding shall not prevent subsequent assessment by a court of maximum civil or criminal penalties. Persons assessed an administrative or civil penalty may also be required to pay attorney fees and costs associated with collecting the penalties.

If any person refuses, denies, or interferes with any right of access, the Department has the right to obtain an administrative or other warrant from a district court to enforce the right of access and inspection.

If the Department finds a person operating as a Dealer without a license, the Department may tag any weight or measure utilized by the Dealer as "Not For Commercial Use".

[back to top](#)

References and Recent Amendments

Statutes

- [Okla. Stat. Title 2](#), Ch. 1, Art. 11, Oklahoma Scrap Metal Dealers Act; 2 O.S. § 11-90 to 2 O.S. § 11-99

Recent Amendments

- [2014 Oklahoma HB 3160](#) (effective November 01, 2014)
- [2016 Oklahoma HB 2624](#) (effective November 01, 2016)
- [2016 Oklahoma SB 1270](#) (effective November 01, 2016)
- [2017 Oklahoma SB 833](#) (effective 90 days after the session adjourns; approx. 8/24/17)
- [2018 Oklahoma HB 2950](#) (effective 11/01/18)

[back to top](#)

OREGON

Metal Property:

Or. Rev. Stat. Chapter 165, § 165.116 to § 165.127

Or. Rev. Stat. Chapter 164, § 164.095.
Theft by Receiving

Or. Rev. Stat. Chapter 164, § 164.857.
Unlawfully Transporting Metal Property

Oregon Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping - Individual Seller](#)
- [Commercial Property](#)
- [Recordkeeping - Commercial Account](#)
- [Metallic Wire - Additional Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting/Do Not Purchase From List](#)
- [Beer Kegs](#)
- [Payment Restrictions](#)
- [Tag and Hold](#)
- [County Theft Alert Plans](#)
- [Transportation Certificate](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Metal Property" means Commercial, Nonferrous, or Private Metal Property.

"Nonferrous Metal Property" means an item fabricated or containing parts made of or in an alloy with copper, brass, aluminum, bronze, lead, zinc or nickel; but does not include gold, silver or platinum that is used in the manufacture, repair, sale or resale of jewelry.

"Private Metal Property" means a catalytic converter removed from a vehicle and offered for sale as an independent item, whether individually or in bulk form.

"Commercial Metal Property" means an item fabricated or containing parts made of metal or metal alloys that:

- Is used as, used in or used as part of:
 - A utility access cover or a cover for a utility meter;
 - A pole, fixture or component of a street light or traffic light;
 - A sign or marker located, with the permission of a governmental entity, alongside a street, road or bridge for the purpose of directing or controlling traffic or providing information to motorists;
 - A traffic safety device, including a guardrail for a highway, road or bridge;
 - A vase, plaque, marker, tablet, plate or other sign or ornament affixed to or in proximity to a historic site, grave, statue, monument or similar property accessible to members of the public;
 - An agricultural implement;
 - A forestry implement or structure; or
 - A logging operation implement;
- Bears the name of, or a serial or model number, logo or other device used by a Commercial Seller to identify the Commercial Seller's property;

- Consists of material used in building or other commercial construction, including:
 - Copper or aluminum pipe, tubing or wiring;
 - Aluminum gutters, downspouts, siding, decking, bleachers or risers; or
 - Aluminum or stainless steel fence panels made of one-inch tubing 42 inches long, with four-inch gaps; or
- Constitutes wire of a gauge typically used by utilities to provide electrical or telecommunications service.

Metallic wire which has had insulation removed is subject to additional recordkeeping or reporting requirements.

Beer kegs are subject to additional purchase restrictions.

"Commercial Seller" means a business entity, as defined in § 60.470, nonprofit corporation or governmental entity that regularly or periodically sells or delivers metal property to a Scrap Metal Business as part of the entity's business functions.

"Scrap Metal Business" means a person that:

- Maintains a permanent or fixed place of business at which the person engages in the business of purchasing or receiving Metal Property for:
 - the purpose of altering or preparing the property for use in manufacturing other products, and uses a device used in metal recycling; or
 - the purpose of aggregation and sale to another scrap metal business; or
- Engages in the business of purchasing or receiving Nonferrous or Private Metal Property for aggregation and sale to another Scrap Metal Business.

"Scrap Metal Business" does not include a governmental entity that accepts Metal Property for recycling.

"Electronic Funds Transfer", as defined in § 293.525, means the movement of funds by nonpaper means, usually through a payment system including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

"Stored Value Device" means a debit card or other device that draws funds from an account owned or operated by the user and that allows the user to obtain something of value from a merchant.

"Transaction" means a sale, purchase, receipt or trade of, or a contract, agreement or pledge to sell, purchase, receive or trade, Private Metal Property or Nonferrous Metal Property that occurs or forms between an individual and a Scrap Metal Business.

[back to top](#)

Exemptions

The law exempts the following persons:

- A person engaged in recycling beverage containers as defined in § 459A.700;
- A person engaged in buying or selling used or empty food containers made of metal;

- A person who has been issued a Vehicle Dealer Certificate (§ 822.020), Dismantler Certificate (§822.110), or Towing Business Certificate (822.205), but only if the person is purchasing, transporting, or receiving an item of Commercial or Nonferrous Metal Property that is a motor vehicle or a motor vehicle part.

The Recordkeeping - Individual Seller provision exempts:

- Transfers of Metal Property made without consideration; and
- A sale, purchase, receipt, trade, contract, agreement, or pledge with a Commercial Seller.

The Recordkeeping - Individual Seller and Recordkeeping - Commercial Account provisions exempt a sale, purchase, receipt, or trade, contract, agreement, or pledge between Scrap Metal Businesses.

[back to top](#)

Recordkeeping - Individual Seller

A Scrap Metal Business must create a written or electronic record of purchases, receipts, or trades of Private Metal Property or Nonferrous Metal Property with an individual Seller. The transaction record must be made on a standardized form in English at the time and in the location where the transaction occurs, with the following information:

- The Seller's signature;
- The time, date, and location;
- The monetary amount or other value of the transaction;
- The name of the Scrap Metal Business employee conducting the transaction;
- The Seller's name, telephone number, and a street address (or post office box if such is listed on the Seller's photo ID) to which payment will be mailed;
- The description, license plate number, and issuing state of the motor vehicle used to transport the Seller or Metal Property, if such was used.
- A copy of the Seller's current government-issued photo ID;
- A photo or video depicting the Seller's face;
- A general description of the Metal Property that constitutes the predominant part of the transaction, including the weight, quantity or volume, and any readily discernible identifiable marks;
- A declaration on the record or on a receipt issued to the Seller stating the following, signed and dated by the Seller and the Scrap Metal Business employee:
I, _____, AFFIRM UNDER PENALTY OF LAW THAT THE PROPERTY I AM SELLING IN THIS TRANSACTION IS NOT, TO THE BEST OF MY KNOWLEDGE, STOLEN PROPERTY.
- If the Scrap Metal Business requires it, the Seller's thumbprint.

[back to top](#)

Commercial Property

A Scrap Metal Business may only purchase or receive Commercial Metal Property from a Commercial Seller with a Commercial Account or their authorized employee or agent.

[back to top](#)

Recordkeeping - Commercial Account

A Scrap Metal Business must create and maintain a Commercial Account before purchasing or receiving Metal Property from a Commercial Seller, with the following information entered clearly and legibly in English onto a standardized printed or electronic form:

- The Commercial Seller's full name;
- The Commercial Seller's business address and telephone number;
- The full name of each individual authorized to receive payment for Metal Property;

For each purchase or receipt of Metal Property from a Commercial Seller, the following:

- The time, date, and location at which the Metal Property was delivered;
- The monetary amount or other value of the Metal Property;
- A description of the predominant type of Metal Property;
- The signature of the Deliverer;
- If the Scrap Metal Business requires it, the Deliverer's thumbprint.

[back to top](#)

Metallic Wire - Additional Recordkeeping

For purchases or receipts of metallic wire which has had insulation removed, a Scrap Metal Business must either:

- Retain a copy of the Seller's appropriate documentation proving the Seller owns or is entitled to offer the wire for purchase or receipt and that the insulation was removed by accident or was done by legitimate means for a legitimate purpose; or
- Report the purchase or receipt to a law enforcement agency within 24 hours.

[back to top](#)

Retention

Records must be kept at all times at the current place of business for 1 year following the transaction date, except that video recordings need only be retained for at least 30 days.

[back to top](#)

Inspection

The required records and accounts must be made available to any peace officer on demand.

[back to top](#)

Reporting/Do Not Purchase From List

A Scrap Metal Business must report the purchase or receipt of any of the following to a law enforcement agency within 24 hours:

- Metal Property the person knows or has good reason to know is stolen or was unlawfully altered;
- Metallic wire which has had insulation removed if the Seller did not provide the documentation required in the Metallic Wire - Recordkeeping/Reporting provision;
- Commercial Metal Property the person knows or has good reason to know was not acquired from a Commercial Seller with a commercial account or an individual who can produce written authorization to deliver Metal Property for such; or
- Metal Property from an individual the person knows or has good reason to know:
 - Is under 16 years old; or

- Has, according to written or electronically transmitted information provided by a peace officer or law enforcement agency, been convicted within the last five years as a principal, agent, or accessory of a crime involving drugs; burglary, robbery, or theft; or possession or receipt of stolen property.

For Metal Property the Scrap Metal Business possesses and knows or has good reason to know was lost by or stolen from the lawful possessor, the Scrap Metal Business must promptly report the name of the lawful possessor, if known; the name of the person that delivered the Metal Property; and the date the property was received.

Within 2 business days after receiving a subpoena from a peace officer or law enforcement agency for information related to a specified individual, vehicle, or Metal Property, a Scrap Metal Business must provide a copy of the relevant record or relevant part of a Commercial Account record with the related information, by any form or method reasonably required.

[back to top](#)

Beer Kegs

A Scrap Metal Business may not purchase or receive kegs or similar metallic containers used to store or dispense alcoholic beverages except from a person that manufacturers such or from a person licensed by the Oregon Liquor Control Commission under § 471.155.

[back to top](#)

Payment Restrictions

No cash payments to a Seller that is an individual or a Commercial Seller that is a nonprofit corporation. Payment must be made by electronic funds transfer, stored value card or stored value device, or by mailing a nontransferable check for the purchase price. Payment must be made not earlier than 3 business days after the transaction date. The check, electronic funds transfer or stored value device must draw on or from an account the Scrap Metal Business maintains with a financial institution. A stored value card may be issued by a money transmission business licensed under § 717.200 to § 717.320 or exempt under § 717.210.

- For an individual paid by check, the check must be payable to the Seller and mailed to the address given in the Recordkeeping provision.
- For a nonprofit paid by check, the check must be payable to the nonprofit and mailed to the address provided in the nonprofit's Commercial Account.

A Scrap Metal Business may not cash a payment check. A Business may only release a check directly to the Seller if the Business has the written approval of a law enforcement agency with jurisdiction over the business and the check was either not delivered in 10 days or was returned as undelivered or undeliverable; such approval must be retained for 1 year. Alternately, the Business may retain a check returned as undelivered or undeliverable until the Seller provides a valid address; if the Seller has not done so within 30 days of the transaction, the Business may cancel the check and the Seller shall forfeit the payment.

[back to top](#)

Tag and Hold

A peace officer or law enforcement agency that reasonably suspects Metal Property was lost or stolen may notify a Scrap Metal Business to segregate, protect, and tag and hold the property for

up to 10 days. Within 10 days the officer or agency must either determine the property was lost or stolen and lawfully impound or recover the property and return it to the owner, or notify the Business that the hold is no longer necessary.

[back to top](#)

County Theft Alert Plans

The District Attorney of each county with a Scrap Metal Business location shall create a written plan of action for effective communication between law enforcement and the business community after consulting with the affected law enforcement agencies and the business community. The plan must include a procedure for agencies to notify Scrap Metal Businesses of a Theft of Metal Property within 24 hours of the theft being reported. The local public safety coordinating council shall receive a copy of the plan from the DA.

[back to top](#)

Transportation Certificate (summarized from § 164.857)

A Seller or transferor of Metal Property that believes the buyer or transferee intends to deliver the property to a Scrap Metal Business shall provide the buyer or transferee with a metal transportation certificate. The State Police shall create a certificate form and make it available on their website. The Metal Transportation certificate must include the following:

- The date the Metal Property was acquired;
- The amount and type of Metal Property being transported;
- The location where the Metal Property was loaded and its destination;
- The name, address, and telephone number of the Seller or transferor;
- The name, address, and telephone number of the transporter.

[back to top](#)

Penalties

A person commits the offense of Unlawfully Transporting Metal Property (§ 164.857) if they transport metal property on a public highway or on premises open to the public with the intent to deliver the metal property to a Scrap Metal Business and the person does not have a metal transportation certificate in their possession

Violation of the law is a specific fine violation with a presumptive fine of \$1,000; or for a Scrap Metal Business with a 4th or subsequent offense, a presumptive fine of \$5,000.

The following are crimes punishable as a class A misdemeanor:

- Unlawfully Altering Metal Property: if a person, with intent to deceive a Scrap Metal Business as to the ownership or origin of Metal Property, knowingly removes, alters, renders unreadable or invisible or obliterates any mark or method a manufacturer uses to identify Metal Property;
- Making a False Statement on a Metal Property Record: if a person knowingly makes, causes, or allows a false entry or misstatement of material fact in a record; or signs the declaration that the property is not stolen while knowing it is;
- Unlawfully Purchasing or Receiving Metal Property: if a Scrap Metal Business or their employee or agent fails to report the purchase or receipt of items specified in the Reporting provision to a law enforcement agency within 24 hours.

It is a defense to a charge of Theft by Receiving (§ 164.095) if a Scrap Metal Business makes the report required for property the person knows or has good reason to know is stolen.

[back to top](#)

References and Recent Amendments

Statutes

- [Or. Rev. Stat. Vol. 4, Ch. 165](#) - Offenses Involving Fraud or Deception; § 165.116 to § 165.127
 - § 165.116. Definitions for ORS 165.116 to 165.124.
 - § 165.117. Metal property transaction records; prohibited conduct; commercial sellers; penalties.
 - § 165.118. Metal property offenses.
 - § 165.122. Compliance with subpoena for information related to metal transaction; lost or stolen metal property.
 - § 165.124. Application of ORS 164.857, 165.116, 165.117, 165.118 and 165.122.
 - § 165.127. County metal theft plan of action.
- [Or. Rev. Stat. Vol. 4, Ch. 164](#) - Offences Against Property
 - § 164.095. Theft by receiving (subsection (2) includes defense for scrap metal business that makes required reports)
 - § 164.857. Unlawfully transporting metal property

Recent Amendments

- [2013 Oregon HB 2403](#) (effective May 16, 2013)
- [2015 Oregon SB 693](#) (effective January 1, 2016)

[back to top](#)

PENNSYLVANIA

Pa. Unconsolidated Statutes Act of October 9, 2008, P.L. 1408, No. 113, Cl. 27

Scrap Materials Theft Prevention Act - Enactment

Pa. Unconsolidated Statutes Act of June 26, 2014, P.L. 799, No. 79, Cl. 27

Scrap material theft prevention act - commercial accounts, restricted materials, statewide registry of scrap processors and recycling facilities, duty to register, criminal registry and penalties

Pa. Consolidated Statutes Title 18, Ch. 39, Subch. B, § 3935.1. Theft of secondary metal; 18 Pa.C.S. § 3935.1.

Pennsylvania Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Recordkeeping - Sellers](#)
- [Recordkeeping - Commercial Accounts](#)
- [Retention](#)
- [Inspection](#)
- [Tag and Hold and Reporting](#)
- [Registration](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

Scrap Material is a term used in the Act but not defined. The Act requires recordkeeping for any transaction involving the purchase of Restricted Materials and on any transaction when the purchase of Scrap Material exceeds \$100.

"Ferrous metals." Items that are predominantly made from iron or steel that have no further use in their original manufactured form but which can be melted for their metal content and utilized in the manufacture of new products.

"Nonferrous Metals." Items that are predominantly made from metals other than iron and steel, such as copper, brass, aluminum, bronze, lead, zinc, nickel and alloys that have no further use in their original manufactured form but which can be melted for their metal content and utilized in the manufacture of new products.

Restricted Materials, as used in this summary, refers to the following materials as listed in Section 5 that may only be purchased from a Commercial Enterprise:

- New production scrap or new materials that are a part of a manufacturing process that are being sold by an individual, not a company;
- Full sized, new materials, such as those used in construction, or equipment and tools used by contractors;
- "Commercial Metal Property." Utility access covers, street light poles and fixtures, road and bridge guardrails, highway or street signs, water meter covers, traffic directional and control signs, traffic light signals, any metal property clearly marked with the name of the commercial enterprise, including, but not limited to, a telephone, cable, electric, water, natural gas or other utility or railroad, unused or undamaged building construction materials consisting of copper pipe, tubing or wiring, aluminum wire, siding, downspouts or gutters, aluminum or stainless steel fence panels, aluminum decking, bleachers or risers, historical markers, statue plaques, grave markers, funeral vases, agricultural irrigation wheels, sprinkler heads and pipes;

- Metallic wire that has been burned in whole or in part to remove insulation, unless the aggregate value is less than \$100;
- "Beer Keg" Vessel designed to contain at least 128 fl. oz. of malt or brewed beverage;
- Detached "Catalytic Converters." An air pollution abatement device that removes pollutants from motor vehicle exhaust, either by oxidizing them into carbon dioxide and water or reducing them to nitrogen.
- "Railroad Material." Railroad power and signal equipment, road or rail crossing signals, railroad track, railroad switch components, railroad spike, angle/joint bar as used in the joining of railroad track, railroad anchors, railroad tie plate or bolt used in constructing a railroad.

"Secondary Metal" under 18 Pa.C.S. § 3935.1. means wire, pipe or cable commonly used by communications, gas and electrical utilities and railroads and mass transit or commuter rail agencies, copper, aluminum or other metal, or a combination of metals, that is valuable for recycling or reuse as raw material.

"Recycling Facility Operator." An owner, operator or employee who operates a facility employing a technology that is a process to separate or classify municipal waste and who creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term does not include a person who operates a transfer station or landfill for solid waste, composting facility or resource recovery facility.

"Scrap Processor." An owner, operator or employee who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous or nonferrous metallic scrap, paper scrap, plastic scrap, rubber scrap or glass scrap into prepared grades and whose principal product is sold as a raw material in the manufacture of new products.

"Processing." Receiving, storing or reselling Scrap Materials for payment or other financial consideration.

"Seller." Any person, other than a Commercial Enterprise, who sells Scrap Materials to a scrap processor or recycling facility operator.

"Commercial Account." A relationship between a Scrap Processor and a commercial enterprise that is ongoing and properly documented.

"Commercial Enterprise." A corporation, partnership, limited liability company, single proprietorship, association, State agency, political subdivision of the Commonwealth, public corporation or any other legal or commercial entity.

[back to top](#)

Recordkeeping - Sellers

A Processor or Operator must record the following for all Sellers of Restricted Material (as a reminder, Restricted Material may only be purchased from a Commercial Enterprise) as well as any other Seller when the purchase of Scrap Material exceeds \$100:

- A copy of the Seller's driver's license;
- The Seller's and buyer's signature for each transaction;
- If the Seller is under 18 years old, written permission of their parent or legal guardian;
- Date and Time of the transaction;
- A description of the scrap material, including the weight;
- The amount paid to the Seller;

For transactions paid in cash, a Processor or Operator must develop methods of tracking a transaction that obtains the Seller's signature on a receipt for the transaction. The receipt must also include a certification that the Seller is the owner or authorized seller of the scrap material.

[back to top](#)

Recordkeeping - Commercial Accounts

A Processor or Operator must create and maintain a permanent record containing the following information with a Commercial Enterprise, including another scrap metal business, in order to establish a Commercial Account:

- The full name and Federal or State tax identification number;
- The business address and telephone number.

Each Commercial Enterprise's record shall document every purchase and receipt of ferrous or nonferrous metal and commercial metal property, including, at minimum:

- The Date and Time;
- The value of the property being purchased or received;
- A description of the predominant types of property being purchased.
- A copy of the Deliverer's driver's license.

If a financial transaction occurs between the Processor or Operator and the Deliverer, the Processor or Operator must additionally record:

- The license plate number of the vehicle transporting the scrap material;
- The telephone number of the Commercial Account;
- Confirmation that the Deliverer is authorized to receive a check or cash on behalf of the person or entity providing the Scrap Material, consisting of a written, signed authorization from the owner or officer of the Commercial Enterprise stating the person delivering the Scrap Material is designated to receive payment;
- If paid in cash, an acknowledgement of receipt of payment signed by the Deliverer.

[back to top](#)

Retention

Records must be maintained for a minimum of 2 years from the date of the transaction.

[back to top](#)

Inspection

A Processor or Operator shall disclose Seller registration information during normal business hours to any investigative or law enforcement officer or any person acting at their direction or request to investigate suspected criminal activities. Disclosure of Commercial Enterprise registration information is not specified.

[back to top](#)

Tag and Hold and Reporting

A law enforcement officer may issue a Processor or Operator written or verbal notification that certain materials have been reported stolen. An officer must reasonably suspect that the Scrap Material has been lost or stolen, and the material description must be as specific as possible, including, but not limited to, the type and the style of the material, length or weight or any other such descriptions. A Processor or Operator may request the law enforcement officer's name, badge number, and department contact number for a verbal hold notice.

The Processor or Operator must inform law enforcement that the reported material is on their premises within 24 hours of either receiving the hold notice or of receiving the reported materials, and tag and hold the material for up to 48 hours after informing law enforcement. After 48 hours the material must be returned to its owner or released from the hold unless it is extended by a magisterial district judge who has determined that probable cause exists that the scrap is stolen.

[back to top](#)

Registration

A Scrap Processor and Recycling Facility must register with the State Police, with individual registrations for each physical address of a Scrap Processing and Recycling Facility. Registrations are valid for 2 years; there is a \$100 fee for each registration or renewal. Registrations must be in writing on a State Police form, or on the form or electronic after the establishment of a state registration database, and include the following:

- For an individual or general partnership applicant:
 - Name, or name of each partner;
 - Driver's license number or a copy of an identification card issued by the state in which the individual or each partner resides;
 - Business or partnership name, address, and telephone number;
 - Federal employer identification number, if applicable;
- For a corporation, limited liability company, or limited partnership applicant:
 - Name of the registering officer, manager, and general partner;
 - Business name, address, and telephone number;
 - Name of each director or each individual holding greater than a 5% equity interest in the entity;
- For an out-of-state applicant, the name and address of the entity's resident agent or registered office provider in Pennsylvania and any registration number or license number issued to the entity by its home state or political subdivision, if applicable.
- For a joint venture, the name, address, and telephone number of the joint venture and of each party to the joint venture.

Within 14 business days of receiving the registration form and fee, the State Police must issue a written notice of registration identifying the name of the applicant, Scrap Processing and Recycling Facility name and address, and a registration number. Registration numbers must be included in all advertisements distributed in Pennsylvania, and the notice of registration must be clearly visible at the place of business.

The State Police shall establish and maintain a statewide registry of Scrap Processors and Recycling Facilities. The registry information shall be posted on the State Police's publically accessible website. Until July 1, 2016, registration fees shall be used to create an electronic registration database; afterwards, the fees shall be deposited in the general fund.

[back to top](#)

Penalties

Violation by a Recycler is a summary offense with a maximum \$2,500 fine. A second or subsequent violation is a misdemeanor of the third degree.

Failure to register as a Scrap Processor or Recycling Facility is a summary offense punishable by a fine of \$1,000.

Upon conviction of an offense under 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition) or § 3925 (relating to receiving stolen property) that relates to the theft of Scrap Material or the transportation of stolen Scrap Material, the court may order the impoundment of any vehicle used in the act for the following periods, with the person convicted responsible for any associated fees:

- 1st offense: between 30 and 60 days;
- Second or subsequent involving the same motor vehicle: between 60 and 180 days.

Under 18 Pa.C.S. § 3935.1, a person commits Theft of Secondary Metal if they unlawfully take or attempt to take possession of, carry away, or exercise unlawful control over any Secondary Metal with intent to deprive the rightful owner, punishable by:

- For a 1st or second offense of Sect. 3935.1 or Sect. 3921 (theft by unlawful taking or disposition), including a conviction, Accelerated Rehabilitative Disposition or other form of preliminary disposition, if the value is:
 - less than \$50, a 3rd degree misdemeanor;
 - \$50 or more but less than \$200, a 2nd degree misdemeanor;
 - \$200 or more but less than \$1000, a 1st degree misdemeanor
 - \$1,000 or more, a 3rd degree felony.
- For a third or subsequent offense, a 3rd degree felony regardless of the value.

[back to top](#)

Preemption

Preempts and supersedes any local ordinance or rule adopted after the effective date of this act (December 8, 2008) which seeks to regulate the processing of scrap materials.

[back to top](#)

References and Recent Amendments

Statutes

Please Note: Pennsylvania's statutes are split into Consolidated and Unconsolidated statutes. Consolidated statutes are grouped by subject and updated as new amendments are made. Unconsolidated Statutes are as they were passed by the Pennsylvania Legislature in chronological order and are not updated with later amendments, which must be referenced separately.

- [Pa. Unconsolidated Statutes Act of October 9, 2008, P.L. 1408, No. 113, Cl. 27](#): Scrap Materials Theft Prevention Act - Enactment
 - [Pa. Unconsolidated Statutes Act of June 26, 2014, P.L. 799, No. 79, Cl. 27](#): Scrap material theft prevention act - commercial accounts, restricted materials, statewide registry of scrap processors and recycling facilities, duty to register, criminal registry and penalties
- [Pa. Consolidated Statutes Title 18, Ch. 39, Subch. B, § 3935.1](#). Theft of secondary metal; 18 Pa.C.S. § 3935.1.

Recent Amendments

- [2014 Pennsylvania SB 1077](#) (approved 06/26/14, effective 60 days after enacted)
- [2014 Pennsylvania HB 80](#) (approved 10/28/14, effective 60 days after enacted) (note: ruled unconstitutional)
- [2017 Pennsylvania HB 267](#) (effective August 21, 2017) (note: reinstates 2014 PA HB 80)

[back to top](#)

RHODE ISLAND

R.I. Gen. Laws Tit. 6, Ch. 11.2;
Purchase and Sale of Regulated Metals
§ 6-11.2-1 to § 6-11.2-17

R.I. Gen. Laws Tit. 5, Ch. 21;
Second-Hand Dealers
§ 5-21-1 to § 5-21-2

Catalytic Converters (not included in summary)
R.I. Gen. Laws Title 6, Chapter 11.1;
Purchase and sale of Precious Metals
§ 6-11.1-1 to § 6-11.1-14

Rhode Island Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

Purchase and Sale of Regulated Metals § 6-11.2

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Licensing](#)
- [Recordkeeping](#)
- [Retention and Information Confidentiality](#)
- [Inspection](#)
- [Reporting](#)
- [Reporting - Restricted & Public Property](#)
- [Hold - Restricted Regulated Property](#)
- [Public Property Purchase Restrictions](#)
- [Purchase from Minors](#)
- [Penalties](#)
- [Rules and Regulations](#)
- [Severability](#)
- [No Preemption](#)

Secondhand Dealers (Old or Used Metals) § 5-21

- [Local Licensing](#)
- [Recordkeeping](#)
- [References and Recent Amendments](#)
- [Inspection](#)
- [Penalties](#)

Please Note: This summary consists of two parts: Title 6, Chapter 11.2 "Purchase and Sale of Regulated Metals"; and § 5-21 "Second-Hand Dealers" regulating old or used metals. § 5-21-3 to § 5-21-6 specifically covering Automobile Junkyards are not included in this summary.

*Catalytic Converters are specifically covered under [R.I. Gen. Laws Title 6, Chapter 11.1](#) "Purchase and Sale of Precious Metals", § 6-11.1-1 to § 6-11.1-14. The Precious Metal statutes include separate licensing, recordkeeping, retention, reporting, hold, purchase restrictions, and penalties that **are not** included in this summary.*

Purchase and Sale of Regulated Metals § 6-11.2

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Regulated Metals Property" means all ferrous and nonferrous metals, but excludes aluminum beverage containers.

"Public Property" means property owned and maintained by a municipality, the state, the United States, or any quasi-governmental entity, including but not limited to items associated with public streets and sidewalks as follows:

- Manhole covers, or other types of utility access covers including, but not limited to, water maintenance covers;
- Highway and street signs;

- Street light poles and fixtures;
- Guardrails for bridges, highways, and roads;
- Historical, commemorative, and memorial markers and plaques; and
- Traffic directional and control signs and light signals.

Restricted Regulated Metals Property, as used in this summary and listed in § 6-11.2-8.(a), includes any of the following property consisting of brass, bronze, copper, cast iron, stainless steel, and/or wrought iron:

- Statutes and sculptures;
- Weathervanes;
- Downspouts;
- Handrails;
- Decorative fencing;
- Grave markers, sculptures; plaques and vases; the appearance of which suggest that the articles have been obtained from a cemetery; and
- Beer kegs.

"Secondary Metals Recycler" means any entity in Rhode Island engaged, from a fixed location or otherwise, in the business of paying compensation for Regulated Metal that has served its original economic purposes, whether or not the entity is engaged in converting Regulated Metals into raw materials.

DoAG as used in this summary refers to the Rhode Island Department of Attorney General.

[back to top](#)

Exemptions

The Licensing provision exempts the purchase of old metals from a person licensed to deal in "junk, old metals or secondhand articles" (§ 5-21) who has previously recorded the contents of the load pursuant to the Regulated Metals Recordkeeping provision and provides a written statement affirming such a record at the time of the transaction.

The Recordkeeping provision exempts junked automobiles or automobile parts from additional recordkeeping "beyond what is otherwise required by law".

[back to top](#)

Licensing

Any person engaged in purchasing, selling, bartering, or dealing any Regulated Metals Property or any articles containing those metals from the general public to resell or recycle in any condition must obtain a license from the DoAG. Applicants must provide:

- For the applicant and/or any principals of an applicant corporation:
 - Full name, including middle name and any aliases;
 - Address of residence and the business;
 - Social security number and/or federal employer identification number
- Street address, city and town where the business is to be conducted;
- Any other information the DoAG requires.

Licenses must be displayed in a visible place at the business. Applicants must pay an annual \$70 license fee. Licenses expire on January 1 and may not be assigned or transferred.

[back to top](#)

Recordkeeping

Licenses must maintain records of all transactions concerning Regulated Metals, printed legibly or typed, on forms obtained from or under the direction of the DoAG with the following information:

- Date of the transaction;
- The Seller's name, address, telephone number if available, and signature;
- A copy of the Seller's photo identification;
- License plate number, state of issue, make, and model of the delivery vehicle, when applicable.
- Price paid;
- A description of the Regulated Metals or a digital image of the transaction;
- The Seller's signed statement that the Seller is the legal owner or agent of the owner authorized to sell, on a form approved by the DoAG;
- Any further information the DoAG may deem relevant to the specific transaction.

[back to top](#)

Retention and Information Confidentiality

Records must be retained for 2 years. A Secondary Metals Recycler is prohibited from releasing a customer's information without the customer's consent unless the disclosure is made in response to a request from a law enforcement agency.

[back to top](#)

Inspection

Records are to be available for inspection by any law enforcement agency by request.

[back to top](#)

Reporting

At the request of a law enforcement department, records must be reported by hand delivery, mail, or electronic submission to the chief of police of the requesting department.

[back to top](#)

Reporting - Restricted Regulated Metal and Public Property

A licensee shall immediately notify the police department of any purchase or receipt of Restricted Regulated Metal Property, or of any individual attempting to sell Public Property without authorization from a governmental entity.

[back to top](#)

Hold - Restricted Regulated Metal

Automatic 3 day hold on Restricted Regulated Metal Property.

[back to top](#)

Public Property Purchase Restrictions

A licensee may only accept Public Property if the seller provides evidence of a valid contract with a government entity at the time of the transaction.

[back to top](#)

Purchase from Minors

A licensee may only purchase Regulated Metal from a minor if the minor is accompanied by the minor's parent or legal guardian.

[back to top](#)

Penalties

Any person damaged or injured by the failure of a person who is required to be licensed to comply with the provisions of the law may recover the actual value of the property involved in the transaction.

A person violating the law is guilty of a misdemeanor, with punishment dependent on the value of the property involved:

- If the value is \$250 or less, up to a \$500 fine and/or up to 1 year imprisonment;
- If the value exceeds \$250, up to a \$1,000 fine and/or up to 1 year imprisonment.

The DoAG may suspend the regulated metals license of any person as a result of violations leading to penalties under the Regulated Metals chapter. The DoAG shall refuse to issue a license when the application is found to contain a false representation; when investigation reveals the applicant has previously been guilty of a violation of this chapter or been a partner of a partnership, member of an association, or officer, director, or member of a corporation previously guilty of a violation of this chapter. Upon determination of a valid written complaint, the AG may issue a final suspension, revocation, or refusal of a license, with hearings and appeals subject to the Administrative Procedures Act, § 42-35.

[back to top](#)

Rules and Regulations

The DoAG may adopt and enforce regulations deemed necessary to carry out the chapter.

[back to top](#)

Severability

If a provision of the chapter is held to be invalid in any circumstance, it shall not affect any other provisions or circumstances. The chapter shall be construed and carried out so as to meet constitutional requirements.

[back to top](#)

No Preemption

The provisions shall not preempt any ordinance or regulation adopted by any town or city in accordance with § 5-21 - Secondhand Dealers.

Secondhand Dealers (Old or Used Metals) § 5-21

Local Licensing

Cities and towns may provide by ordinance for licensing of persons selling, purchasing, bartering, and dealing in junk, old metals, and any other second-hand articles, and persons establishing, operating, or maintaining automobile junkyards. Local licenses may not exceed 1 year. Licensing fees may not exceed \$100 for shops or storehouses to receive junk, old metals, or secondhand articles; \$5 for gatherers of such items in any bag, wagon, or cart; or \$100 for automobile junkyards. Special rules apply for an "automobile junkyard".

Before granting a license for a location not already occupied at the time of application, the local licensing authority shall hold a public hearing with notice given 7 to 14 days prior in 2 public places and in a newspaper of general circulation in the locality, for which the applicant will pay a \$10 fee plus the cost of posting and publishing the notice. No license will be granted if the owners or occupants of the greater part of the land within 200 feet of the location file an objection. This does not apply to an applicant whose current location is being acquired under eminent domain proceedings and who is applying for the licensing of a new location within the same locality.

[back to top](#)

Recordkeeping - Old or Used Metals

Local licensing ordinances must provide that each person purchasing or receiving old or used metals, other than junked automobiles or automotive parts, must record the following for each purchase or receipt:

- Date of the transaction;
- Seller's name, address, telephone number, and signature;
- Description of the old or used metals;
- Price paid.

[back to top](#)

Inspection

Records shall be produced at the request of law enforcement officials.

[back to top](#)

Penalties

Local governments may set penalties for violating ordinances or operating without a license, but penalties for any one offense may not exceed a \$500 fine or maximum 6 months imprisonment.

[back to top](#)

References and Recent Amendments

Statutes

- [R.I. Gen. Laws Title 6, Ch. 11.2](#) Purchase and Sale of Regulated Metals; § 6-11.2-1 to § 6-11.2-17
- [R.I. Gen. Laws Title 5, Ch. 21](#) Second-Hand Dealers; § 5-21-1 to § 5-21-2
- Catalytic Converters (not included in summary): [R.I. Gen. Laws Title 6, Chapter 11.1](#) Purchase and Sale of Precious Metals; § 6-11.1-1 to § 6-11.1-14

Recent Amendments

- [2013 Rhode Island SB 79](#)

[back to top](#)

SOUTH CAROLINA

Nonferrous Metals

S.C. Code Ann. Title 16, Ch. 17; § 16-17-680

Obtaining Nonferrous Metals Unlawfully

S.C. Code Ann. Title 16, Ch. 11, Section 523;
§ 16-11-523

Railroad Materials

S.C. Code Ann. Title 58, Ch. 15;
§ 58-15-870 and § 58-15-875

South Carolina Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Permit - Recycler](#)
- [Permit - Transport and Sell](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Purchase Restrictions](#)
- [Payment Restrictions](#)
- [Notice to Seller](#)
- [Hold](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Nonferrous Metals" means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, steel propane gas tanks, and stainless steel beer kegs or containers.

"Coil" means a copper, aluminum, or aluminum-copper condensing coil or evaporation coil. The term includes, but is not limited to, coil from a commercial or residential heating or air-conditioning system. The term does not include coil from a window air-conditioning system, if the coil is contained within the system, or coil from an automobile condenser.

Iron or steel manhole covers, iron or steel drainage grates, and Coils are subject to purchase restrictions.

Copper, catalytic converters, and beer kegs are subject to payment restrictions.

Railroad Track Materials are subject to special purchase and payment restrictions but are not defined.

"Secondary Metals Recycler" means any person engaged in the business of paying compensation for Nonferrous Metals that have served their original economic purpose, whether or not the person is engaged in converting Nonferrous Metals into raw material.

"Fixed Site" means a site occupied by a Secondary Metals Recycler as the owner of the site or as a lessee of the site under a lease or other rental agreement providing for occupation of the site by a Secondary Metals Recycler for a total duration of not less than 364 days.

Identification, as used in this summary, refers to the valid forms listed in § 16-17-680.(H):

- South Carolina driver's license issued by the Department of Motor Vehicles;
- South Carolina identification card issued by the Department of Motor Vehicles;
- Driver's license from another state with the licensee's picture on the license face; or
- Military identification card.

Exempt Seller, as used in this summary, refers to the following entities listed in § 16-17-680.(J)(1). Recyclers must make records of transactions with Exempt Sellers and Nonferrous Metals purchased from Exempt Sellers are subject to the Hold provisions. Otherwise, Exempt Sellers are exempt from all but the penalties for obtaining a permit to transport and sell for the purpose of transporting or selling stolen Nonferrous Metals (§ 16-17-680.(C)(10)), and the penalties for transporting or presenting permits to transport or sell or bills of sale for Nonferrous Metals known to be stolen (§ 16-17-680.(G)(5)).

- Transactions between Secondary Metals Recyclers;
- A governmental entity;
- A manufacturing or industrial vendor that generates or sells Regulated Metals in the ordinary course of its business;
- A seller who is:
 - A holder of a retail license;
 - An authorized wholesaler;
 - An automobile demolisher as defined in § 56-5-5810(d);
 - A contractor licensed under § 40-11;
 - A real estate broker or property manager licensed pursuant to § 40-7;
 - A residential home builder licensed pursuant to § 40-59;
 - A demolition contractor;
 - A gas, electric, communications, water, plumbing, electrical, climate conditioning, core recycling, appliance repair, automotive repair, or electronics repair service provider; or
- A seller that is an organization, a corporation, or an association registered with South Carolina as a charitable organization or nonprofit corporation.)

[back to top](#)

Exemptions

Exempts the purchase or sale of aluminum cans.

[back to top](#)

Permit - Recycler

A Recycler must obtain a permit to purchase Nonferrous Metals from the sheriff of the county where each of the Recycler's Fixed Sites are located. A Permit is valid for 24 months. A sheriff may issue the permit if the Recycler has a Fixed Site in the sheriff's county, has not been convicted of a violation of § 16-11-523 (unlawfully obtaining Nonferrous Metals) or § 16-17-680, and declares on the application that the Recycler is informed of and will comply with the law. A sheriff may investigate a Recycler's background before issuing a permit to determine if the Recycler qualifies. The sheriff may charge and retain a \$200 permitting fee for each permit, and must record:

2

Nonferrous - [S.C. Code Ann. Title 16, Ch. 17](#), § 16-17-680.
 Unlawfully Obtaining - [S.C. Code Ann. Title 16, Ch. 11](#), § 16-11-523.
 Railroad Materials - [S.C. Code Ann. Title 58, Ch. 15](#); § 58-15-870. and § 58-15-875.
 © 2019 Institute of Scrap Recycling Industries, Inc. All Rights Reserved [ISRI.org](#)

- The date of issuance; and
- The name and address of the permit holder.

If the Recycler intends to purchase Nonferrous Metals at a location other than a Fixed Site, the Recycler must obtain a permit from the sheriff of each county where they intend to purchase. The sheriff may issue the permit if the Recycler can sufficiently demonstrate their ability to comply with the law, has not been convicted of a violation of § 16-11-523 or § 16-17-680, and declares on the application that the Recycler is informed of and will comply with the law.

Employees acting within the scope and duties of their employment are not required to obtain a separate permit, but must have a copy of the permit available for inspection if they intend to purchase Nonferrous Metals at a location other than a Fixed Site.

[back to top](#)

Permit - Transport and Sell

Unless the entity is an Exempt Seller, any person or entity who wants to transport or sell Nonferrous Metals to a Recycler must obtain a permit to transport and sell from the sheriff of the person or entity's county. A sheriff may issue the permit to a person if they reside or have a secondary residence or the entity is located or has a secondary location in the sheriff's county, have not been convicted of a violation of § 16-11-523 or § 16-17-680, and declare on a form provided by the sheriff that they are informed of and will comply with the law. A sheriff may investigate the person or entity's background before issuing the permit to determine if they qualify. A permit is valid statewide and expires on the person's birth date two calendar years after the year it was issued; or, for an entity, two calendar years after it was issued. The sheriff may not charge a fee for a permit, but may charge a \$10 fee to replace a lost or destroyed permit. The sheriff must record:

- The date of issuance;
- The name and address of the permit holder;
- A photocopy of the permit holder's identification;
- The license plate number of the permit holder's vehicle; and
- The permit holder's photograph.

A person that isn't a resident or an entity that isn't located in South Carolina must obtain a permit from any sheriff of any county. The sheriff may issue the permit if the person or entity is not a resident of or located in South Carolina, has not been convicted of a violation of § 16-11-523 or § 16-17-680, and declares on a form provided by the sheriff that they are informed of and will comply with the law.

An employee is not required to obtain a separate permit to transport or sell if the employee is acting within the scope and duties of their employment. An employee who intends to transport and sell Nonferrous Metals on behalf of an entity must have a copy of the entity's permit readily available for inspection.

[back to top](#)

Recordkeeping

A Recycler must record the following for purchases of Nonferrous Metal; the Recycler may retain records in an electronic database if the information is legible and can be accessed by law enforcement upon request:

- The date of purchase;
- The Seller's name and address;
- A copy of the Seller's Identification;
- A copy of the Seller's permit to transport and sell, if applicable;
- The license plate number of the Seller's motor vehicle, if available;
- The Seller's photograph or a video of the Seller. If the Seller's photo is already on file the Recycler may reference that photo, but must update the photo annually;
- The weight and size or other description of the Nonferrous Metals;
- The amount paid;
- A signed statement that the Seller is the rightful owner or is entitled to sell.

[back to top](#)

Retention

Records must be maintained for 1 year from the date of purchase, except a video of the Seller taken in lieu of a photograph must only be retained for 120 days.

[back to top](#)

Inspection

Records and Nonferrous Metals purchased by and in the possession of a Recycler must be kept open for inspection by law enforcement officials or local and state governmental agencies during regular business hours.

[back to top](#)

Purchase Restrictions

A Recycler must not purchase or otherwise acquire the following:

- An iron or steel manhole cover;
- An iron or steel drainage grate; or
- A Coil unless:
 - The Seller is a holder of a retail license; An authorized wholesaler; An automobile demolisher as defined in § 56-5-5810(d); A contractor licensed under § 40-11; A real estate broker or property manager licensed pursuant to § 40-7; A residential home builder licensed pursuant to § 40-59; A demolition contractor; A gas, electric, communications, water, plumbing, electrical, climate conditioning, core recycling, appliance repair, automotive repair, or electronics repair service provider; or
 - The Seller presents a bill of sale from a company licensed under § 40-11 indicating the Seller acquired the Coil as the result of a unit replacement or repair; the bill of sale is sufficient proof of ownership and serves the same purpose as a permit to transport and sell.

It is unlawful to purchase, sell, or transport railroad track materials for the purpose of recycling unless either the purchaser, seller, or transporter is:

- A railroad company or a railroad company's authorized agent;
- A business that owns a railroad spur;
- An independent railroad contractor; or
- A person or business with a letter of authorization from a special agent of a railroad company class 1 or shortline. An entity removing or authorizing the removal of railroad track materials from private property must obtain a letter of authorization from the railroad company servicing the property.

[back to top](#)

Payment Restrictions

No cash payments totaling \$25 or more for the purchase of copper, catalytic converters, or beer kegs; a Recycler shall not make more than one cash transaction per day per Seller for such. Payment for transactions that exceed the cash threshold or transactions per day limit must be by check issued and made payable to the seller. A Recycler may not cash a check issued in payment or use an ATM or other cash card system in lieu of a check.

Payment for railroad track materials only must be made to the railroad company or the company's principals, the business that owns the railroad spur or the businesses' principals, the independent railroad contractor or the contractor's principals, or the person or business authorized by the railroad company or the businesses' principals.

[back to top](#)

Notice to Seller

A Recycler must prominently display a 20" by 30" sign in their Fixed Site stating the following (please note that, due to amendments since the requirement was originally created, the sign does not include the full list of Exempt Sellers):

"NO NONFERROUS METALS, INCLUDING COPPER, MAY BE PURCHASED BY A SECONDARY METALS RECYCLER FROM A SELLER UNLESS THE SELLER IS A HOLDER OF A RETAIL LICENSE, AN AUTHORIZED WHOLESALER, A CONTRACTOR LICENSED PURSUANT TO ARTICLE 1, CHAPTER 11, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, A GAS, ELECTRIC, COMMUNICATIONS, WATER, PLUMBING, ELECTRICAL, OR CLIMATE CONDITIONING SERVICE PROVIDER, OR THE SELLER PRESENTS THE SELLER'S VALID PERMIT TO TRANSPORT AND SELL NONFERROUS METALS ISSUED PURSUANT TO Section 16-17-680, CODE OF LAWS OF SOUTH CAROLINA, 1976"

[back to top](#)

Hold

15 calendar day hold upon receipt of written notice from a law enforcement officer. An officer with reasonable cause to believe an item of Nonferrous Metal in the possession of a Recycler has been stolen may issue a written hold notice to the Recycler that specifically identifies the items believed stolen and informs the Recycler of the hold requirements. An officer may issue a written extended hold notice before the initial 15 days expires; this extends the hold for 30 days from the date the extended hold notice is received. A hold may be released early by the issuing officer. After a hold expires the Recycler may dispose of the item unless a different disposition has been ordered by a court with jurisdiction.

If a Seller does not have a permit to transport and sell, a Recycler may hold a Seller's Nonferrous Metals while the Seller obtains a permit.

[back to top](#)

Penalties

It is unlawful to purchase Nonferrous Metals for recycling unless the purchaser is a Recycler with a valid permit to recycle Nonferrous Metal and the Seller holds a valid permit to transport and sell.

A purchaser of Nonferrous Metals who violates the Recordkeeping, Retention, Inspection, Payment Restrictions, Notice to Seller, or Hold provisions, or who unlawfully purchases Nonferrous Metals as described above is guilty of a misdemeanor punishable by the mandatory revocation of their permit and:

- 1st offense: a \$200 to \$300 fine or up to 30 days imprisonment;
- 2nd offense: a \$400 to \$500 fine and/or up to 1 year imprisonment;
- 3rd or subsequent offense occurring within a 10 year period: up to a \$1,000 fine and/or up to 3 years imprisonment.

A Recycler's permit or permit to transport and sell may be denied, suspended, or revoked at any time if a sheriff discovers the application information is inaccurate, the permit holder does not comply with the requirements of the law, or the permit holder is convicted of a violation of § 16-11-523 or § 16-17-680.

It is unlawful to sell Nonferrous Metals to a Recycler unless the Recycler has a valid permit to recycle and the Seller either has a valid permit to transport and sell or is an Exempt Seller. A violation is punishable by the mandatory revocation of the seller's permit and:

- 1st offense: a misdemeanor, punishable by a fine at the discretion of the court and/or up to 1 year imprisonment;
- 2nd offense: a misdemeanor, punishable by a minimum \$500 fine and/or up to 3 years imprisonment; or
- 3rd or subsequent offense: a felony, punishable by a minimum \$1,000 fine and/or up to 5 years imprisonment (no limitation to offenses within a 10 year period).

A person who presents a falsified bill of sale to sell a Coil is guilty of a misdemeanor, punishable by a fine in the discretion of the court and/or up to 3 years imprisonment.

It is unlawful to transport Nonferrous Metals in a vehicle or have Nonferrous Metals in a person's possession in a vehicle on a state highway unless one of the following apply:

- The vehicle is used in the ordinary course of business for transporting Nonferrous Metals (includes but is not limited to vehicles used by gas, electric, communications, water, plumbing, electrical, and climate conditioning service providers);
- The person can present a valid permit to transport and sell;
- The person can present a valid bill of sale; or

- A law enforcement officer determines the Nonferrous Metals are not stolen goods and are in the rightful possession of the person.

A violation is a misdemeanor punishable by:

- 1st offense: up to a \$200 fine or up to 30 days imprisonment;
- 2nd offense: up to a \$500 fine and/or up to 1 year imprisonment;
- 3rd or subsequent offense occurring within a 10 year period: up to a \$1,000 fine and/or up to 3 years imprisonment.

The following are felony offenses punishable by a fine in the discretion of the court and/or up to 10 years imprisonment; any permit to transport and sell must also be revoked:

- Obtaining a permit to transport and sell for stolen Nonferrous Metals;
- The purchase of Nonferrous Metal from a Seller who does not have a valid permit to transport or sell by a purchaser who intends to resell the metal to a Recycler using the purchaser's own valid permit to transport or sell; or
- For Nonferrous Metal known to be stolen:
 - Transporting such in a vehicle or having such in their possession in a vehicle on a state highway, or in a vehicle used in the ordinary course of business to transport such;
 - Presenting a valid or falsified permit to transport and sell; or
 - Presenting a valid or falsified bill of sale.

Under § 16-11-523, willfully and maliciously damaging any personal or real property, including any fixtures or improvements, to obtain Nonferrous Metals is punishable by the revocation of any permit issued under § 16-17-680 and:

- If the direct injury to the property, loss in value to the property, amount of repairs necessary to return the property to its condition before the act, or property loss including fixtures or improvements, is:
 - Less than \$5,000, a misdemeanor subject to a fine in the discretion of the court and/or up to 3 years imprisonment; or
 - \$5,000 or more, a felony subject to a fine in the discretion of the court and/or up to 10 years imprisonment.
- If another person suffers great bodily injury as a result of a violation of the section, the violator is guilty of a felony subject to up to 15 years imprisonment, or up to 30 years imprisonment if the person dies.
- If a violation creates a disruption of communication or electrical service to critical infrastructure or more than 10 customers, a misdemeanor subject to a fine in the discretion of the court and/or up to 3 years imprisonment.

Under § 16-11-523, a public or private owner of personal or real property is not civilly liable for injuries caused by a dangerous condition created by a theft or attempted theft of Nonferrous Metals when the owner did not know and could not have reasonably known about the theft.

Violation of the purchase or payment restrictions for railroad track materials (§ 58-15-875) is a:

- 1st offense: misdemeanor subject to a fine of at least \$250 and/or up to 1 year imprisonment;
- 2nd offense: misdemeanor subject to a fine of at least \$500 and/or up to 3 years imprisonment
- 3rd or subsequent: felony subject to a fine of at least \$1,000 and/or up to 5 years imprisonment.

Under § 58-15-870, it is unlawful to willfully and maliciously cut, mutilate, deface, or otherwise injure a railroad or electric railway, including anything appertaining to (belonging to, related to, connected with, or concerning) the railroad or railway or any material or instrument for the construction of the railroad or railway. In addition to the following penalties, except in the case of an electric railway, a person who violates this section shall forfeit treble damages for each offense proved to be sustained to be recovered in a tort action in the railroad company's name. Violation is a:

- Misdemeanor subject to a fine of at least \$1,000 and/or 5 years imprisonment;
- If the violation results in the endangerment of another person's life or great bodily injury to another person, a felony subject to up to 20 years imprisonment;
- If the violation results in the death of another person, a felony subject to up to 30 years imprisonment.

[back to top](#)

Preemption

Preempts local ordinances and regulations governing the purchase, sale, or transportation of Nonferrous Metals, except to the extent they pertain to zoning or business license fees. Political subdivisions may not enact more restrictive ordinances or regulations.

[back to top](#)

References and Recent Amendments

Statutes

- Nonferrous - [S.C. Code Ann. Title 16, Ch. 17](#), § 16-17-680. Secondary metals recycler permit to purchase nonferrous metals; permit to transport and sell nonferrous metals; violations; penalties; records; notice; preemption.
- Unlawfully Obtaining - [S.C. Code Ann. Title 16, Ch. 11](#), § 16-11-523. Obtaining nonferrous metals unlawfully; disruption of communication or electrical service.
- Railroad Materials - [S.C. Code Ann. Title 58, Ch. 15](#); § 58-15-870 and § 58-15-875
 - § 58-15-870. Injury to railroad or electric railway; penalties.
 - § 58-15-875. Unlawful to purchase, sell, or transport railroad track materials for recycling; method of payment; penalties.

Recent Amendments

- [2014 South Carolina SB 560](#) (effective June 2, 2014)
- [2014 South Carolina SB 561](#) (effective June 2, 2014)

[back to top](#)

SOUTH DAKOTA

S.D. Codified Laws Title 34A, Chapter 6,
Sections 107 to 112
§ 34A-6-107 to § 34A-6-112
(as amended by 2019 South Dakota HB 1082)

South Dakota Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Tag and Hold](#)
- [Purchase Restriction - Beer Kegs](#)
- [Payment Restriction](#) (HB 1082)
- [References and Recent Amendments](#)

Please Note: Amendments by [2019 South Dakota HB 1082](#), effective July 1, 2019, are included and noted in this summary.

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Nonferrous Metal Property," any metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, platinum, rhodium, palladium, or nickel, or any of their alloys. Aluminum does not include any food or beverage containers, except for a beer keg.

Metal Beer Kegs are subject to special purchase restrictions.

"Scrap Metal Business," any scrap metal supplier, scrap metal recycling center, or scrap metal processor.

"Industrial or Commercial Account," any person or business, including a Scrap Metal Business, operating from a fixed location, that sells Nonferrous Metal to a scrap metal recycler pursuant to a contractual arrangement or agreement.

"Transaction," a pledge to buy, the purchase of, or the trade for any Nonferrous Metal Property by a Scrap Metal Business from any person. A transaction does not include a sale or trade involving any Industrial or Commercial Account.

[back to top](#)

Recordkeeping

A Scrap Metal Business must keep records of each Transaction involving the purchase of Nonferrous Metal Property exceeding \$100. Records must be a paper, electronic, or other method of storing information and include the following information:

- The date and location of the transaction;
- The value of the transaction;
- The Seller's signature;
- The Seller's name, street address, city, and state;
- A copy of the Seller's government-issued photo ID card (*HB 1082 changes from recording the ID card number or a copy*);
- A description of the predominant types of Nonferrous Metal Property involved in the transaction, including the weight, quantity, or volume;
- The name of the employee representing the Scrap Metal Business.

A sale or trade with an Industrial or Commercial Account is exempt from recordkeeping.

[back to top](#)

Retention

Records must be retained for 1 year at the location that the business is conducted.

[back to top](#)

Inspection

Records shall be open inspection by any law enforcement officer during all ordinary hours of business or at reasonable times if ordinary business hours are not kept.

[back to top](#)

Reporting

Upon request by a law enforcement officer, a Scrap Metal Business must report a requested copy of a transaction record within 2 business days.

A Scrap Metal Business with good cause to believe any Nonferrous Metal in its possession is lost or stolen must promptly report the following to a law enforcement officer:

- The fact that the Scrap Metal Business believes the metal was lost or stolen;
- The name of the owner of the Nonferrous Metal, if known;
- The date of the transaction;
- The Seller's name.

[back to top](#)

Tag and Hold

Up to a 10 business day tag and hold by request of a law enforcement officer that reasonably suspects an item of Nonferrous Metal Property has been lost or stolen, or if a law enforcement officer has notified the business that an item has been stolen. The business must hold the property safe from alteration, damage, or commingling, and place an identifying tag or other suitable identification on it. If the property is determined not to be lost or stolen it must be returned to the owner or released.

[back to top](#)

Purchase Restriction - Beer Kegs

If a metal beer keg, whether damaged or not, is clearly marked as the property of a brewery manufacturer, or if the identification markings were made illegible, a Scrap Metal Business may not purchase the keg except from the brewer or its authorized representative. Violation of the purchase restriction on beer kegs is a Class 2 misdemeanor.

[back to top](#)

Payment Restriction (as created by HB 1082)

Payment for the purchase of nonferrous metal property that exceeds \$100 shall be made by either check or electronic funds transfer.

[back to top](#)

References and Recent Amendments

Statutes

- [S.D. Codified Laws Title 34A, Chapter 6](#), § 34A-6-107 to § 34A-6-112

Recent Amendments

- [2019 South Dakota HB 1082](#) (effective July 1, 2019)

[back to top](#)

TENNESSEE

Tenn. Code Ann. Title 63, Ch. 9
Scrap Metal Dealers
§ 62-9-101 to § 62-9-116

Tenn. Code Ann. Title 39, Ch. 17, Part 14
Metals Recycling
§ 39-17-1401 to § 39-17-1404

Tenn. Code Ann. Title 55, Ch. 4, Part 1, § 55-4-124
Registration of vehicles hauling certain materials

Tennessee Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

Scrap Metal Dealers

- [Materials Covered and other Definitions](#)
- [Exemptions](#)
- [Government or Waste Entity](#)
- [Pre-Purchase Inquiry](#)
- [Recordkeeping](#)
- [Restricted Scrap Metal - Additional Recordkeeping](#)
- [Retention](#)
- [No Purchase from Minors](#)
- [Beer Kegs](#)
- [HVAC](#)
- Payment Restrictions:
 - [HVAC](#)
 - [Copper or Catalytic Converters](#)
 - [Government or Waste Entity](#)
- [Registration](#)
- [Uniform Marking System](#)
- [Study - No Buy List](#)
- [Penalties](#)

Metals Recycling Facilities

- [Definitions](#)
- [Acknowledgement Required Items](#)
- [References and Recent Amendments](#)
- [Notice to Seller](#)
- [Penalties](#)

Please Note: Tennessee's Scrap Metal Dealers law is found in Title 62, Chapter 9; additional requirements concerning transactions with Metals Recycling Facilities are found in Title 39, Chapter 17, and are presented separately following the Scrap Metal Dealers provisions.

Scrap Metal Dealers

Materials Covered and other Definitions (edited for clarity and conciseness)

"Scrap Metal Dealer" means a person who buys, exchanges or deals in Scrap Metal or an employee or agent of that Dealer who has the express or implied authority to buy, exchange or deal in Scrap Metal on behalf of the Dealer.

"Scrap Metal" means any ferrous or nonferrous metal that is no longer used for its original purpose and is capable of being processed for reuse by a metal recycling facility, including, but not limited to, iron, brass, wire, cable, copper, bronze, aluminum, platinum, lead, solder, steel, stainless steel, catalytic converters or other similar obsolete ferrous or nonferrous metals, but shall not include recyclable aluminum cans.

Restricted Scrap Metal refers to the following types of Scrap Metal as listed in § 62-9-106:

- Scrap Metal marked with the initials of an electric, telephone, cable or other public utility or an electric or telephone cooperative;
- Utility access covers;

- Street light poles and fixtures;
- Road and bridge guard rails;
- Highway or street signs;
- Water meter covers;
- Traffic directional and control signs;
- Traffic light signals;
- Any Scrap Metal visibly marked or painted with the name of a government entity, business, company or the name of the owner of the metal (must be marked in accordance with the Uniform Scrap Metal Marking System provision);
- Property owned by a telephone, cable, electric, water or other utility, an electric or telephone cooperative or a railroad, and marked or otherwise identified as such;
- Unused and undamaged historical markers or grave markers and vases.

"Licensed HVAC Contractor" means a person holding a license from the state board for licensing contractors with a CMC, MC, CMC-C, or MC-C classification.

"Department" means the Department of Commerce and Insurance.

"Commissioner" means the Commissioner of Commerce and Insurance or their designee or, in the event of their absence or vacancy in the office, the Deputy Commissioner.

Aggregate Value, as used in this summary, refers to the value of Scrap Metal in its original undamaged condition plus any costs which are or would be incurred in repairing or recovering property damaged in the theft or removal of the metal.

[back to top](#)

Exemptions

Scrap Metal transactions between registered Dealers are exempt provided the Scrap Metal is lawfully obtained and may be lawfully sold for scrap at the time of the transaction.

[back to top](#)

Government or Waste Entity

Nothing in this law should be constructed to prevent a governmental entity, regulated landfill, or solid waste processing facility from selling any Scrap Metal donated to it or otherwise lawfully obtained by it without compensation, or from registering as a Dealer.

[back to top](#)

Pre-Purchase Inquiry

Before purchasing Scrap Metal, a Dealer must "conduct a reasonably diligent inquiry, based upon the seller, type and quantity of metal offered for sale and other circumstances surrounding the transaction, to determine whether the person selling or delivering the scrap metal has a legal right to do so and whether a lawful transaction may be made."

[back to top](#)

Recordkeeping

A Dealer that purchases or acquires Scrap Metal from a person must record the following information in chronological order of sale from day to day, as the business is transacted:

- One of the following; a Seller must present some form of identification to sell:
 - If the Seller has a valid state or federally issued photo ID card:
 - The Seller's name, sex, height, date of birth, residence address, and identification card number; and
 - A copy of the photo ID card;
 - If the Seller does not have a state or federally issued photo ID card:
 - A record of the information from some other form of state or federally issued identification; and
 - A photograph of the Seller;
- The license plate number, make, and model of the Seller's motor vehicle;
 - For a commercial vehicle, the name of the business owning or leasing it;
- A right thumbprint impression, or left thumb or another finger if unavailable, with the finger used identified on the record;
- If the Seller presents a bill or sale, receipt, or other document indicating lawful possession or acquisition of the Scrap Metal, a copy of such a document;
- The date of purchase;
- The Seller's name;
- The amount paid for the Scrap Metal;
- The weight of each kind of Scrap Metal;
- A detailed description of the metal purchased using terminology developed by the Department.

[back to top](#)

Restricted Scrap Metal - Additional Recordkeeping

A purchase of Restricted Scrap Metal must also record a copy of the Seller's reasonable, written documentation of ownership or authorization to sell on the owner's behalf.

[back to top](#)

Retention

Records must be retained on the site where the transaction occurred for 3 years.

[back to top](#)

Inspection

During a Dealer's usual and customary business hours, a law enforcement officer or the Commissioner may inspect any purchased Scrap Metals in the possession of a Dealer and any required transaction records.

[back to top](#)

No Purchase from Minors

No Dealer may purchase, or acquire any Scrap Metal from a person under 18 years old, whether the metal is acquired directly from, through, or by the aid of the minor.

[back to top](#)

Beer Kegs

No Dealer may knowingly purchase or possess a metal beer keg, whether damaged or undamaged, or any reasonably recognizable part of a metal beer keg, on any premises the Dealer uses to buy, sell, store, shred, melt, cut, or otherwise alter Scrap Metal.

[back to top](#)

HVAC

A Dealer may only purchase an air conditioner evaporator coil or condenser, in whole or in part, from a Seller bearing documentation with the following:

- The Seller's company is one of the following:
 - A licensed HVAC contractor who acquired the item in performance of contracting as defined in § 62-6-102;
 - In a jurisdiction exempt from the requirements of § 68-120, a company meeting all local or municipal permitting requirements to repair, replace, and install HVAC units containing copper evaporator coils or condensers; or
 - A company holding a current business tax license, with a Class 4 classification, or a current sales tax identification number indicating it is an HVAC installer or repairer;
- The Seller is an authorized agent, representative, or employee of the company.

[back to top](#)

Payment Restrictions - HVAC

No cash payments for an air conditioner evaporator coil or condenser. Payment must be by check or money order, payable to the Seller's company and mailed to its business address.

[back to top](#)

Payment Restrictions - Copper or Catalytic Converters

For copper or an unattached catalytic converter payment must be:

- If the Seller is not the agent or employee of a business, by check, money order, or voucher, at the option of the Seller subject to the following requirements:
 - A check must be mailed to the physical address provided on the driver's license the Seller used for identification.
 - If the Seller did not provide a driver's license, payment must be by voucher. No voucher may be redeemed sooner than 5 days from the date of the transaction. A voucher may only be redeemed by the person whose name appears on the voucher as the Seller or by their heirs or legal representative. If a voucher is not redeemed by an authorized person within 6 months of a transaction, it expires and the transaction amount must be transmitted to the Department within 1 year for use in the administration of the law. A voucher must include the following information:
 - The date on which the voucher may be redeemed;
 - The date of purchase;
 - The Seller's name;
 - The amount paid for the Scrap Metal;
 - The weight of each kind of Scrap Metal;
 - A detailed description of the metal purchased using terminology developed by the Department.
- If the Seller is an agent or employee of a business, by check or money order made payable to the business and mailed to the business address.

A Dealer may charge the Seller a fee established by the Department for the Dealer's administrative costs of processing and issuing a required check. The fee may vary according to the value or weight of the purchase, but shall not exceed \$5 per check.

A Seller is exempt from the payment restrictions if the Seller is an agent or employee of a business that sells copper or unattached catalytic converters on a regular or frequent basis and the business has preregistered the Seller with the Dealer.

[back to top](#)

Payment Restrictions - Governmental or Waste Entity

Payment to a governmental entity, regulated landfill, or solid waste processing facility must be by check or money order, payable to the entity and mailed to its business address.

[back to top](#)

Registration

A Dealer must register itself with the Department and list each place of business within Tennessee, with reference to its specific location. A registration is valid for 2 years, with registration and renewal fees set by the Department to cover administrative costs.

Registrants must declare under penalty of perjury whether they have ever been convicted of a violation of the Tennessee Scrap Metal Dealers law or of a criminal offense of theft, burglary, or vandalism, which involves Scrap Metal. For registrations that are organizations or legal entities, such convictions by any member of the organization or entity must be disclosed and will constitute convictions by the registrant. A convicted registrant is prohibited from registering for 5 years from the date of conviction.

Upon the death of the registrant, registrations shall continue to be effective for the locations designated for at least 60 days; the Commissioner may extend the period for good cause. A registration shall expire upon notification to the Department by the location registered that the registrant is no longer an employee or agent of the location.

The law does not require an employee of a registered Dealer to secure a registration and does not prohibit a registered Dealer from employing another registered Dealer.

Under § 55-4-124. Registration of vehicles hauling certain materials, any vehicle, freight motor vehicle, truck-tractor, trailer or semitrailer or combinations of these vehicles that transports ferrous and non-ferrous scrap metal (among other listed materials) is permitted to register as follows; however, this section shall not be construed as authorizing the vehicles to use the interstate highway system:

- A vehicle with 4 axles and designed to unload itself, with a gross weight not exceeding 74,000 lbs. including load, may register as a Class 10 vehicle or purchase the appropriate special zone tag;
- A vehicle with 3 axles and designed to unload itself, with a gross weight not exceeding 66,000 lbs. including load, may register as a Class 9 vehicle or purchase the appropriate special zone tag.

[back to top](#)

Uniform Scrap Metal Marking System

To be considered Restricted Scrap Metal, Scrap Metal marked or painted with the name of a government entity, business, company, or the name of the owner must be marked in accordance with a uniform scrap metal marking system developed by the Department. The Department may consult with other government departments and private companies in devising the system, and may appoint a committee to develop the system. If appointed, the committee shall consist of 5 to 7 members with at least one member from:

- The scrap metal industry;
- The Tennessee Association of Chiefs of Police;
- The Tennessee Sheriffs' Association;
- The Home Builders Association of Tennessee, and
- A member of the public who is not engaged in any of the above groups.

[back to top](#)

Study - No Buy List

The Department was tasked with conducting a study of the cost and feasibility of implementing a "no buy list" where Dealers would be prohibited from purchasing Scrap Metal from persons listed on the Department's web site as having been convicted of a violation of this law or of theft, vandalism, or burglary pertaining to Scrap Metal. The Department was to have reported its findings to the state legislature by January 31, 2009.

[back to top](#)

Penalties

Any violation committed by an employee of a registered Dealer while acting within the scope of employment constitutes a violation by that Dealer.

A registrant convicted of a violation of the Tennessee Scrap Metal Dealers law or of a criminal offense of theft, burglary or vandalism, which involves scrap metal, shall have any existing scrap metal registration immediately revoked and is prohibited from registering as a Scrap Metal Dealer for 5 years from the date of conviction.

The Commissioner may investigate a Dealer for an alleged violation of the Registration, Restricted Scrap Metal, HVAC, Payment Restrictions - HVAC, or Payment Restrictions - Copper and Catalytic Converters provisions, and must investigate such upon the verified written complaint of any person. If the Commissioner finds the Dealer in violation, the Commissioner must notify the Dealer of their right to a hearing in writing. If the Dealer fails to request a hearing in writing within 10 days, the hearing right is waived and the Commissioner may impose any sanction permitted by the law. The Commissioner may also deny an application or suspend, revoke, or refuse to issue or renew a registration for a violation of the provisions above, or of any other rule properly made by the Commissioner.

In addition to or in lieu of any other lawful disciplinary action, the Commissioner may assess a civil penalty of up to \$1,000 for each violation, with each day a separate violation.

A Seller that knowingly sells or attempts to sell Restricted Scrap Metal to a Dealer without complying with the [Restricted Scrap Metal - Additional Recordkeeping](#) provision commits:

- A Class A misdemeanor; or
- If the Aggregate Value of the metal exceeds \$500, a Class E felony punishable only by a fine of up to \$5,000.

A Dealer that knowingly purchases or attempts to purchase Restricted Scrap Metal without complying with the [Restricted Scrap Metal - Additional Recordkeeping](#) provision commits a Class A misdemeanor.

A Seller or Dealer prosecuted for violating the Restricted Scrap Metal - Additional Recordkeeping provision may also be prosecuted for theft or any other applicable offense.

A violation of the HVAC or Payment Restrictions - HVAC provisions or the Beer Keg provision is a Class A misdemeanor punishable only by a fine, but a person prosecuted for such may also be prosecuted for any other applicable offense.

A person who violates the Scrap Metal Dealers Act, a Dealer who fails to or falsely registers, or a registered Dealer who knowingly purchases Scrap Metal that the Seller did not own or have authorization to sell or was unlawfully obtained by the Seller, commits:

- A Class A misdemeanor, punishable only by a fine; or
- If the Aggregate Value exceeds \$500, a Class E felony punishable only by a fine of up to \$5,000.

A Seller who sells or attempts to sell Scrap Metal knowing it is stolen, whether by the Seller or another person, shall be subject to punishment for theft graded as provided in § 39-14-105 according to the Aggregate Value of the metal.

[back to top](#)

Metals Recycling Facilities

Definitions

"Metals Recycling Facility" means any business that is predominantly engaged in performing the process by which scrap, used or obsolete ferrous or nonferrous metals are converted into raw materials consisting of proper grades and having an existing or potential economic value.

[back to top](#)

Acknowledgement Required Items

A Seller may not sell, convey, or otherwise transfer to a Metals Recycling Facility any of the following, whether included with a load of scrap or contained or enclosed within any other item, without first obtaining a signed written acknowledgement from the facility that such has been sold, conveyed, or transferred:

- Lead-acid battery;
- Fuel Tank;
- PCB-containing capacitor;
- Chlorofluorocarbon refrigerant; or
- Unspent air bag.

[back to top](#)

Notice to Seller

A Metals Recycling Facility must post the following notice, no smaller than 24" by 18", in a conspicuous location that is readily visible to all Sellers:

TENNESSEE LAW PROHIBITS THE SALE, TRANSFER OR CONVEYANCE OF ANY OF THE FOLLOWING ITEMS TO THIS FACILITY WITHOUT FIRST OBTAINING OUR SIGNED WRITTEN ACKNOWLEDGMENT THAT WE WILL ACCEPT THE ITEM:

- (A) LEAD-ACID BATTERIES;
- (B) FUEL TANKS;
- (C) PCB-CONTAINING CAPACITORS;
- (D) CHLOROFLUOROCARBON REFRIGERANTS; AND
- (E) UNSPENT AIR BAGS.

A VIOLATION OF THIS LAW IS A CLASS B MISDEMEANOR.

[back to top](#)

Penalties

A violation of the Metals Recycling Facility provisions is a Class B misdemeanor.

[back to top](#)

References and Recent Amendments

Statutes

- [Tenn. Code Ann.](#) Title 62, Ch. 9 Scrap Metal Dealers; § 62-9-101 to § 62-9-116
- [Tenn. Code Ann.](#) Title 39, Ch. 17, Part 14 Metals Recycling; § 39-17-1401 to § 39-17-1404
- [Tenn. Code Ann.](#) Title 55, Ch. 4, Part 1, § 55-4-124. Registration of vehicles hauling certain materials.

Recent Amendments

- [2013 Tennessee SB 733](#) (effective July 1, 2013)
- [2016 Tennessee SB 2134](#) (effective April 12, 2016)
- [2017 Tennessee SB 820](#) (effective July 1, 2017)

[back to top](#)

TEXAS

Texas Occupations Code, Title 12, Subtitle B, Chapter 1956
Metal Recycling Entities
§ 1956.001 to § 1956.204
(as amended by 2019 Texas HB 1545
and 2019 Texas SB 616)

Texas Government Code, Title 4, Subtitle B, Chapter 411
Subchapter O; § 411.421 to § 41.422
Subchapter Q; § 411.501 to §411.512
Subchapter R; § 411.521 to § 411.533
(Subch. Q & R created by 2019 Texas SB 616;
2 other Subch. Qs were also created in 2019)

Texas Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [License and Registration](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Hold](#)
- [Payment Restrictions](#)
- [Cash Transaction Cards](#)
- [Hours of Purchase](#)
- [Notice to Sellers](#)
- [Restrictions on Certain Property](#)
- [Prohibited Acts](#)
- [Penalties](#)
- [Hearing](#)
- [Advisory Committee](#)
- [Texas Department of Public Safety](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Please Note: Amendments by [2019 Texas HB 1545](#), effective September 1, 2021, and amendments by [2019 Texas SB 616](#), effective September 1, 2019 (except that proceedings initiated before the effective date are governed by the law in effect on the date the proceeding was initiated), are included and noted in this summary.

*Texas has special requirements for items listed as "**Regulated Metal**". Due to its similarity to the general term "Regulated Material", references to "**Regulated Metal**" are bolded.*

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Regulated Material" means Aluminum Material, Bronze Material, Copper or Brass Material, Lead Material, or **Regulated Metal**.

"Aluminum material" means a product made from aluminum, an aluminum alloy, or an aluminum by-product. The term includes aluminum wiring and an aluminum malt beverage keg but does not include another type of aluminum can used to contain a food or beverage. (*HB 1545 replaces beer keg with malt beverage keg*)

"Bronze Material" means a cemetery vase, receptacle, or memorial made of bronze; bronze statuary; or material readily identifiable as bronze, including bronze wiring.

"Copper or Brass Material" means:

- A power inverter or insulated or noninsulated copper wire or cable that contains copper or an alloy of copper or zinc and is of the type used by:
 - A public utility or common carrier;
 - A telecommunications provider as defined by TX Utilities Code § 51.002;

- A cable service provider as defined by TX Utilities Code § 66.002; or
- A video service provider as defined by TX Utilities Code § 66.002;
- A copper or brass item commonly used in construction or by:
 - A public utility;
 - A telecommunications provider as defined by TX Utilities Code § 51.002;
 - A cable service provider as defined by TX Utilities Code § 66.002; or
 - A video service provider as defined by TX Utilities Code § 66.002; or
- Copper pipe or copper tubing.

"Explosive Device" means a device or material that contains explosive powder, primer, fluid, or gas or a detonator. The term does not include:

- A device designed, made, or adapted for delivering or shooting ammunition of .50 caliber or less and purchased for personal or security reasons recognized under state or federal law;
- A component of a motor vehicle or mechanical equipment, including equipment that is used in the exploration or production of minerals;
- Any type of compressed cylinder that is commonly used in a residence or commercial business; or
- Any type of scrap metal that is routinely purchased in the metal recycling industry and that is not associated with military weaponry.

"Lead Material" means:

- A commercial grade lead battery, lead-acid battery, or spiral cell battery; or
- A material or an item readily identifiable as being made of or containing lead.

"**Regulated Metal**" consists of the following:

- Manhole covers;
- Guardrails;
- Metal cylinders designed to contain compressed air, oxygen, gases, or liquids;
- Malt beverage kegs made from metal other than aluminum (*HB 1545 replaced beer keg with malt beverage keg*);
- Historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum;
- Unused rebar;
- Street signs;
- Drain gates;
- Safes;
- Communication, transmission, and service wire or cable;
- Condensing or evaporator coils for central heating or air conditioning units;
- Utility structures, including the fixtures and hardware;
- Aluminum or stainless steel containers designed to hold propane for fueling forklifts;

- Metal railroad equipment, including tie plates, signal houses, control boxes, signs, signals, traffic devices, traffic control devices, traffic control signals, switch plates, e-clips, and rail tie functions;
- Catalytic converters not attached to a vehicle;
- Fire hydrants;
- Metal bleachers or other seating facilities used in recreational areas or sporting arenas;
- Any metal item clearly and conspicuously marked with any form of the name, initials, or logo of a governmental entity, utility, cemetery, or railroad;
- Insulated utility, communications, or electrical wire that has been burned in whole or in part to remove the insulation;
- Backflow valves;
- Metal in the form of commonly recognized products of the industrial metals recycling process, including bales, briquettes, billets, sows, ingots, pucks, and chopped or shredded metals; and
- Commercial grade lead batteries or lead-acid batteries.

Condensing or evaporator coils from a central heating or air conditioning unit and communications wire burned to remove insulation are subject to special documentation requirements.

Bronze cemetery vases, receptacles, memorials, or statuary, and aluminum irrigation pipes are subject to special reporting requirements.

Lead acid batteries, fuel tanks, or PCB-containing capacitors are subject to special seller requirements and purchase restrictions.

Motor vehicles that include, contain, or enclose a scrap tire, and metal alcoholic beverage kegs are subject to special purchase restrictions.

"Metal Recycling Entity" (referred to as Recyclers in this summary) is a business operating from a fixed location that predominantly:

- Converts scrap, used, or obsolete metal into raw material products;
- Uses said raw materials in the manufacture of producer or consumer goods; or
- Acquires scrap metals for use in one of the above purposes.

"Commission" means the Public Safety Commission

"Department" means the Texas Department of Public Safety.

"Personal Identification Document" means a valid US state-issued driver's license, a US military ID card, or a state-issued personal ID certificate.

[back to top](#)

Exemptions

The law exempts:

- Purchases of Regulated Material from Sellers that sell Regulated Material in the ordinary course of the Seller's business;
- Purchases of Regulated Material by manufacturers who primarily manufacturer iron and steel products made from melting scrap iron and scrap steel; or
- The transport of materials to or from a Recycler.

The Department's summary report tracking sales of **Regulated Metal** exempts "regulated material sold by a utility company, municipality, manufacturer, railroad, cemetery, cable or satellite entity, or other business entity that routinely has access to **regulated metal**".

Transactions between Recyclers are exempt from the Recordkeeping requirements if the purchaser verifies the Seller's registration using the state database.

Transactions with Sellers that regularly sell Regulated Material in the ordinary course of their business are exempt from the automatic Hold requirements on **Regulated Metal**.

The Restrictions on Certain Property provision exempts sales or transfers by or on behalf of a Recycler, as well as fuel tanks that has been completely drained and rendered unusable in accordance with Texas Commission on Environmental Quality rules. The restriction on sales or transfers of a motor vehicle that that includes, contains, or encloses a scrap tire does not apply to a motor vehicle sold or transferred from another state.

[back to top](#)

License and Registration

Political subdivisions may require and issue a license or permit to operate as a Recycler, with a maximum \$100 issuance or renewal fee that may not be increased without approval from the local governing body based on costs associated with law enforcement and administration. Political subdivisions with licensing or permitting requirements must submit information on the businesses to the state, including inspection reports and information regarding violations and disciplinary actions initiated against the business.

Recyclers must register with the state every 2 years; the law mandates renewal fees with tiered late renewal penalties. The Department must send an expiration notice to registered Recyclers at least 45 days before their registration expires. The Department may establish registration qualifications by rule, which may include accepting copies of a license or permit issued by a local government. *(SB 616 repealed the max \$250 issuance fee provision)*

(as amended by SB 616) Under [Gov Code § 411.0891](#), the Department may obtain and use criminal history record information maintained by the FBI or Department relating to an applicant or registered Metal Recycling Entity. The Department may require a person to submit a complete and legible set of fingerprints on a form prescribed by the Department for the purpose of obtaining criminal history record information.

[back to top](#)

Recordkeeping

A Recycler must make an electronic or written English record of and a Seller must present the following material for transactions involving Regulated Materials. A Recycler does not have to collect the signed statement of ownership or a copy of the Seller's ID if both are already on file and the information has not changed.

- Date and Place of the purchase;
- The amount of the purchase;
- Seller's name and address;
- Identification number from the Seller's personal ID document, which must be visually verified at the time of the transaction;
- Copy of seller's personal ID Document;
- Description in accordance with custom of commodity type and quantity purchased;
- The make, model, color, license plate number and issuing state of the motor vehicle used to transport the Regulated Material;
- One of the following:
 - A copy of written documentation evidencing that the Seller is the legal owner or is lawfully entitled to sell;
 - A statement of ownership signed by the Seller that the Seller is the legal owner or is lawfully entitled to sell; or
 - A photograph of Seller's motor vehicle with the make, model, and license plate number identifiable.
- For condensing or evaporator coils from a central heating or air conditioning unit:
 - The identifying number from the Seller's air conditioning and refrigeration contractor license issued under [Tex. Occ. Code §1302](#) Subchapter F or G;
 - A copy of the Seller's air conditioning and refrigeration technician registration issued under [Tex. Occ. Code §1302](#) Subchapter K;
 - A copy of documentation showing the Seller purchased the coils; or
 - A copy of documentation showing the Seller purchased a replacement central heating or air conditioning unit.
- For communications wire burned to remove insulation, a copy of acceptable documentation that the material was salvaged from a fire.
- For Regulated Material paid for by:
 - Cash, a copy of the Seller's cash transaction card or approved application for a cash transaction card;
 - Debit card, a copy of the debit card receipt and the Seller's cash transaction card or approved application for a cash transaction card;
 - Check, a copy of the check.
- For an item listed as **Regulated Metal**, a digital photograph or video of the Seller's entire face and of each type of **Regulated Metal** purchased.
- For any item, a Recycler **may** photograph the Seller's entire face and obtain the name of the Seller's employer for the record.

If a Seller represents themselves as a Recycler, the purchaser must either:

- Verify the Seller's registration by using the state database, or
- Obtain a copy of the Seller's registration in addition to the record information above.

[back to top](#)

Retention

Records must be retained for 2 years, or 91 days for video recordings, or 181 days for a digital photograph, in an "easily retrievable" format.

A Recycler must preserve for 2 years:

- Each application for a cash transaction card the entity receives, and
- A copy of each transaction card the entity issues or renews.

[back to top](#)

Inspection

Records must be available for inspection within 72 hours after the time of purchase. On request, a Recycler shall permit a Texas peace officer, a Department representative, or a representative of a political subdivision that issues a Recycler license or permit, to inspect, during the Recycler's usual business hours, the Recycler's records, Regulated Material in the Recycler's possession, or an application for a cash transaction card submitted to the Recycler. The person seeking to inspect a record or material must:

- Inform the Recycler of their status as a peace officer; or
- Inform and display identification or another appropriate document establishing them as a representative of the Department or an appropriate political subdivision.

[back to top](#)

Reporting

Recyclers must send an electronic transaction report to the Department by the close of the Recycler's second working day after the date of acquisition. A Recycler is not required to include the amount of the purchase or a copy of the cash transaction card, debit card receipt, or check in the transaction report.

For a purchase of bronze cemetery vase, receptacle, memorial, or statuary, or an aluminum irrigation pipe, a Recycler must also notify the Department by phone, email, or the Department's website by the close of the business on the first working day after the purchase date in addition to the standard report, unless the Seller:

- Is the manufacturer or fabricator of the material or pipe;
- Bears a bill of sale for the material or pipe; or
- Is the owner of the material or pipe.

For the possession of an Explosive Device unknowingly purchased or otherwise obtained, a Recycler must report to the Department by phone, email, or through the Department's website on the first working day after the date the possession of the device is discovered. The Recycler may also report to an appropriate law enforcement authority or the nearest military installation so that the Explosive Device may be removed or disposed of as soon as possible.

Recyclers may submit reports by fax if they receive an annual exception from the Department for having no available and reliable means of electronic transmission.

[back to top](#)

Hold

For an item of **Regulated Metal**, the Recycler must hold the item for the following unless the Seller regularly sells Regulated Material in the ordinary course of business:

- 8 days, excluding weekends and holidays, if the item is a cemetery vase, receptacle, or memorial made from a Regulated Material other than aluminum material; or
- 72 hours, excluding weekends and holidays, for other items.

A Peace officer may issue a 60 day hold on an item of Regulated Material by issuing the Recycler written notice specifically identifying item alleged stolen and informing the Recycler of the hold requirements.

[back to top](#)

Payment Restrictions

Under § 1986.038.(b), a metal recycling entity may not pay for Regulated Material in cash unless they are registered with the state and licensed or permitted by their political subdivision, if applicable. The Department may also prohibit cash payments by metal recycling entities that fail to comply with the Reporting requirements. Political subdivisions may not enact more restrictive limits on cash payments after January 1, 2011.

A Recycler may only pay for Regulated Material by:

- If the Seller presents a cash transaction card issued by a Texas Recycler or the Recycler obtains a copy of the Seller's card from the Recycler's records:
 - Cash if the Recycler records a copy of the cash transaction card or the application for such, unless the metal recycling entity is prohibited under § 1956.038.(b);
 - Debit card if the Recycler records a copy of the debit card receipt as well as the cash transaction card or a copy of the application for such;
- Check if the Recycler records a copy of the check;
- Money order; or
- Direct deposit by electronic funds transfer.

[back to top](#)

Cash Transaction Cards

An application for the issuance or renewal of a cash transaction card must include:

- The name, address, sex, and birth date of the applicant;
- The identification number from the applicant's personal identification document;
- A digital photo that accurately depicts the applicant's entire face taken at the time the applicant completes the application;
- A clear and legible thumbprint of the applicant;
- The signature of the applicant; and
- The signature of the individual approving the application on behalf of the Recycler.

A Recycler may approve an application upon receipt and issue a cash transaction card; the Recycler must mail the issued card to the address provided on the application for the card. A cash transaction card is not transferrable, is valid for up to 2 years, and must include:

- The name and address of the Seller;
- A digital photo of the Seller that accurately depicts the Seller's entire face;
- An identifying number unique to the individual card; and
- The expiration date of the card, which may not be later than 2 years from the date it was issued or renewed.

A Recycler must preserve for 2 years:

- Each application for a cash transaction card the entity receives, and
- A copy of each transaction card the entity issues or renews.

[back to top](#)

Hours of Purchase

A recycler may not purchase Regulated Material from the general public more than 15 consecutive hours in one day or later than 9 PM.

[back to top](#)

Notice to Sellers

A Recycler must maintain in a prominent place at their business, in open view to Sellers, a notice in 2-inch lettering that states the Recycler's usual business hours as well as the following, which may be on a sign with other information a Recycler is required to display:

A PERSON ATTEMPTING TO SELL ANY REGULATED MATERIAL MUST PRESENT SUFFICIENT IDENTIFICATION AND WRITTEN PROOF OF OWNERSHIP REQUIRED BY STATE LAW.

WARNING: STATE LAW PROVIDES A CRIMINAL PENALTY FOR A PERSON WHO INTENTIONALLY PROVIDES A FALSE DOCUMENT OF IDENTIFICATION OR OTHER FALSE INFORMATION TO A METAL RECYCLING ENTITY WHILE ATTEMPTING TO SELL ANY REGULATED MATERIAL.

A Recycler must also post a 24-inch horizontal by 18-inch vertical sign that is readily visible to the Seller and that includes the following language:

TEXAS LAW PROHIBITS:

- 1. THE SALE OF A WHOLE, FLATTENED, OR JUNKED MOTOR VEHICLE, AN APPLIANCE, OR ANY OTHER SCRAP METAL ITEM CONTAINING A LEAD-ACID BATTERY, FUEL TANK THAT HAS NOT BEEN COMPLETELY DRAINED AND RENDERED UNUSABLE, OR PCB-CONTAINING CAPACITOR; AND**
- 2. THE SALE OF LEAD-ACID BATTERIES, FUEL TANKS THAT HAVE NOT BEEN COMPLETELY DRAINED AND RENDERED UNUSABLE, OR PCB-CONTAINING CAPACITORS INCLUDED WITH OTHER SCRAP METALS WITHOUT OUR PRIOR WRITTEN ACKNOWLEDGMENT.**

VIOLATION OF THIS LAW IS A MISDEMEANOR.

[back to top](#)

Restrictions on Certain Property

Before selling or transferring a lead-acid battery, fuel tank, or PCB-containing capacitor that is included with another type of scrap, the Seller must obtain a written and signed acknowledgement from the Recycler that the scrap contains one or more of the listed materials. A Seller may not sell or transfer a motor vehicle, an appliance, or any other scrap, used, or obsolete metal item that contains a lead-acid battery, fuel tank, or PCB-containing capacitor as a part.

A Seller may not sell or transfer:

- A motor vehicle that includes, contains, or encloses a scrap tire.
- A metal alcoholic beverage keg unless the Seller is the manufacturer of the keg, the brewer or distiller of the beverage that was contained in the keg, or an authorized representative of the manufacturer, brewer, or distiller.

The Restrictions on Certain Property provision exempts sales or transfers by or on behalf of a Recycler, as well as fuel tanks that has been completely drained and rendered unusable in accordance with Texas Commission on Environmental Quality rules. The restriction on sales or transfers of a motor vehicle that that includes, contains, or encloses a scrap tire does not apply to a motor vehicle sold or transferred from another state.

[back to top](#)

Prohibited Acts

Displaying a false or invalid personal identification document, making a false material statement or representation, displaying or providing information a person knows is false or invalid, displaying another individual's identification, or violating the Payment Restrictions are all prohibited acts.

[back to top](#)

Penalties

Failure to obtain a required local license or permit is a Class B misdemeanor, or a Class A misdemeanor if the defendant has been previously convicted of the same. A violation is also subject to a maximum \$1,000 civil penalty for each violation, with each day a violation occurs or continues to occur counting as a separate violation. The Department or a political subdivision may enjoin the business operations of a Recycler for 30 to 90 days if the Recycler has not submitted an application for a required registration, license, or permit.

Knowingly committing a Prohibited Act is a Class A misdemeanor, or a state jail felony if previously convicted of a violation of Subchapter A-3: Practice by Certificate Holders.

Knowingly failing to register, representing oneself as a Recycler or performing collection services without a registration, failing to report, or failing to abide by the hours for purchasing material are Class A misdemeanors punishable by a maximum \$10,000 fine, or a state jail felony if previously convicted of the same. Municipalities may retain 10% of the fine; the rest is to be used to finance administration of the law and fund grants distributed under the prevention of scrap metal theft grant program established by [Tex. Gov. Code Ch. 411, Subchapter O](#).

Knowing purchase of stolen Regulated Material or insulated communication wire that has been burned and is not accompanied by acceptable documentation is a Class A misdemeanor, or a state jail felony if previously convicted of the same. A court may also order a convicted Recycler to cease doing business for 30 days from the date of the order for each violation, or 180 days for each violation if previously convicted of a violation under the Criminal Penalty section (§1956.040).

Knowing sale of stolen Regulated Material is a state jail felony, or a 3rd degree felony if previously convicted of the same.

The following offenses related to Explosive Devices are Class A misdemeanors, or felonies of the second degree if it is shown at trial that a person suffered death or serious bodily injury as a result of the detonation of the Device. Upon conviction, the court may order the defendant to make restitution to the state or political subdivision for costs incurred for responding to the offense and any treatment required, or to the owner of any property damaged as a result of the offense.

- A person who knowingly sells an Explosive Device to a Recycler;
- A Recycler who knowingly purchases an Explosive Device;
- A Recycler who knowingly stores or allows an Explosive Device to be stored on their premises. Storage is considered to begin 72 hours after the Explosive Device is presented for sale or attempted sale and ends at the time the Recycler reports the presence of the Device on their premises to the Department. The Recycler is not liable for the time it takes for the Department, a law enforcement agency, or a military installation to respond to the report.

If an offense under the Criminal Penalty section also constitutes an offense under any other law, the actor may be prosecuted under the Criminal Penalty or the other law.

A person who violates the requirements of the Restrictions on Certain Property provision commits a misdemeanor punishable by a maximum \$1,000 fine and/or 60 days confinement in the county jail.

A person who violates this chapter or a rule adopted under this chapter is liable to this state for a maximum \$1,000 civil penalty for each violation. The amount of the penalty shall be based on the seriousness of the violation; the history of previous violations; the amount necessary to deter a future violation; and any other matter that the justice may require. However, a civil penalty may not be assessed for violations of the requirements for Registration, Reporting, Prohibited Acts, or Hours of Purchase.

The Department shall deny an application for a certificate of registration, suspend or revoke a certificate of registration, or reprimand a registered person who:

- Obtains a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;
- Sells, barter, or offers to sell or barter a certificate of registration; or
- Violates a provision of this chapter or a rule adopted under this chapter.

A person commits a Class B misdemeanor if the person solicits the purchase of Regulated Material at a location other than a business location at which the material is produced as a by-product in the ordinary course of that business.

A person who violates this chapter or a rule adopted under the chapter, including such issued by a local government in compliance with the Preemption provision, is guilty of a Class C Misdemeanor; however, if such also constitutes an offense under another section of the chapter, the person may only be prosecuted under the other section.

The Public Safety Commission, after notice and an opportunity for a hearing, may impose an administrative penalty on a person who violates the Metal Recycling Entities Chapter. The amount of the penalty may not exceed \$1,000; each day the violation occurs or continues to occur is considered a separate violation. For violations of the Reporting provision or relating to Explosive Devices, the aggregate penalty for multiple violations may not exceed \$10,000. In determining the amount, the Commission shall consider:

- The seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- The economic harm caused by the violation;
- The history of previous violations;
- The amount necessary to deter a future violation;
- Efforts to correct the violation; and
- Any other matter that justice may require.

(SB 616 replaced the existing requirement for a standardized penalty schedule and removed the requirement for penalties to be deposited in a special account)

(SB 616 replaced the existing requirements regarding judicial reviews)

[back to top](#)

Hearing

A person whose application for a certificate of registration is denied, whose certificate of registration is suspended or revoked, or who is reprimanded is entitled to a hearing before the Department if the person submits to the Department a written request for the hearing.

[back to top](#)

Advisory Committee

The law creates a 12 member Advisory Committee appointed by the Director of the Department of Public Safety, consisting of the following:

- 1 representative of the Department;
- 2 representatives of local law enforcement from different municipalities with populations under 200,000
- 2 representatives of local law enforcement from different municipalities with populations between 200,000 and 500,000;
- 1 representative of local law enforcement from municipality with a population greater than 500,000;

- 5 representatives of metal recycling entities;
- 2 representatives of industries impacted by theft of Regulated Material;
- 1 sheriff of a county with a population of 500,000 or more; and
- 1 sheriff of a county with a population of less than 500,000.

The Advisory Committee elects its own presiding officer to 2 year term (no term limit) and meets annually and at call of the presiding officer or Director. No compensation or reimbursement is granted.

[back to top](#)

Texas Department of Public Safety and the Public Safety Commission

The Department is permitted to issue broad rules on various implementations of the law.

The Department must make a list of all registered Recyclers available to the public on its website, containing a Recycler's name, physical address, and the name of and contact information for a representative of the Recycler. *(SB 616 repealed the Department's annual report to the legislature on registered Recyclers)*

The Department must establish a state electronic reporting system to track sales of **Regulated Metal** and post a summary of reports to its website. The sales report must include the frequency with which a person presents Regulated Materials for sale to a Recycler by county or region. The report must maintain the confidentiality of all information provided, including the name of the seller, the price paid for the purchase, and the quantity of Regulated Material purchased. The report shall exclude "regulated material sold by a utility company, municipality, manufacturer, railroad, cemetery, cable or satellite entity, or other business entity that routinely has access to **regulated metal**".

The Department may enter into a contract to operate the statewide reporting system, but the contract must require that the contractor maintain the confidentiality of all information and specify that the contract may be terminated for a violation of confidentiality. The Department must investigate complaints alleging that contractors have failed to maintain the confidentiality of information related to sales of Regulated Material.

(created by SB 616) [Gov. Code Ch. 411](#), Subchapters Q and R, cover the administration of licenses and administrative penalties for Occ. Code Ch. 1956. Metal Recycling Entities, as well as certain other programs. The following changes are effective September 1, 2019, except that proceedings initiated before the effective date are governed by the law in effect on the date the proceeding was initiated, and the former law is continued for that purpose.

The Department shall:

- Maintain a system to promptly and efficiently act on complaints re a violation of an applicable law or rule, with info on the parties to the complaint, the subject matter of the complaint, and summary of the results of its review or investigation, and its disposition;
- Make info available describing its procedures for complaint investigation and resolution;

- Periodically notify complaint parties of the complaint status until final disposition, and on written request inform parties of the status unless the information would jeopardize an ongoing investigation
- Adopt rules to implement these requirements and establish procedures for the investigation and resolution of complaints;
- Conduct investigations as necessary to enforce applicable laws or rules; *(SB 616 replaced the existing provision in Occ. Code Ch. 1956 allowing the Department to investigate violations)*
- Adopt rules establishing procedures for informal resolution of complaints; any settlements arising from such must be approved by the Director or their designee.
- Develop a penalty schedule for programs consisting of administrative sanctions and based on the severity and frequency of a violation.
- Make an annual report available on their website of regulatory statistics for the previous year for applicable programs that includes for each program:
 - The number of licenses issued;
 - The number and types of complaints received and resolved;
 - The number of investigations conducted; and
 - The number and types of disciplinary actions taken.
- Issue a cease and desist order if necessary to prevent a violation of an applicable law or rule, filed in a district court in Travis County or the county where the violation allegedly occurred or is threatened to occur. The AG may recover reasonable expenses incurred in obtaining injunctive relief.

The Commission has final determination in an administrative action against a person for a violation of an applicable law or rule; the Commission may not delegate this authority. The Commission may deny applications for, revoke, suspend, or refuse to renew a license for, or may reprimand a license holder for, a violation of a law or rule. A person with a suspended license may be placed on probation, and the Commission may require such to report to the Department regularly, limit practice to areas prescribed, or continue or renew education regarding areas that are the basis of the probation. Persons are entitled to notice or hearing for any such denial, reprimand, or probation.

The Commission may adopt a system of staggered license expirations, but must prorate fees for the year in which the expiration date of a license is changed.

The Commission may impose an administrative penalty against a person who violates an applicable law or rule. If the relevant law doesn't state the maximum penalty, the amount shall not exceed \$5,000 per day of violation. Amounts shall be based on:

- The seriousness of the penalty;
- The respondent's history of previous violations;
- The amount necessary to deter a future violation;
- Efforts made by the respondent to correct the violation; and
- Any other matter that justice may require.

The Commission shall establish a written enforcement plan that provides notice to licensees of specific ranges of penalties that apply to specific violations and the criteria for determining the amount of a proposed administrative penalty. Proceedings to impose a penalty may be combined with proceedings to impose a sanction.

If, after investigation, the Department determines a violation occurred, the Department shall issue a notice of alleged violation stating a brief summary of the violation, the amount of recommended administrative penalty, and that the respondent has the right to a hearing to contest the alleged violation and/or the amount of the penalty. The respondent must, within 20 days of receiving the notice, accept the determination or make a written request for a hearing. Hearings shall be conducted by the State Office of Administrative Hearings; a hearing officer or administrative law judge shall make findings of fact and conclusions of law and promptly issue the Commission a proposal for decision regarding the occurrence and the amount of any proposed penalty.

Based on these, the Commission may determine that a violation occurred and impose a penalty, or that a violation did not occur. The Dept. shall give notice of order to the respondent with:

- Separate statements of the findings of fact and conclusions of law;
- The amount of any penalty imposed;
- A statement of the right of the respondent to judicial review of the order, and
- Any other info required by law.

Within 30 days after the order becomes final, the respondent shall either pay the penalty, or file a petition for judicial review contesting the order and either forward the penalty for deposit in escrow or give the Dept. a supersedeas bond for the amount of the penalty, effective until judicial review of the decision is final. A respondent who is financially unable to comply with the escrow / bond requirement must file a sworn statement to such with their petition for review. If no action is taken, the Dept. or AG may bring action to collect the penalty.

If, after judicial review, the penalty is reduced or not imposed, the Dept. shall remit the appropriate amount plus accrued interest if the penalty was paid, or execute a release of the bond if bond was posted.

The Commission shall prescribe procedures for the determination and appeal of a decision to impose an administrative penalty. A proceeding to impose a penalty is a contested case under Ch. 2001.

[back to top](#)

Preemption

Political subdivisions may adopt rules, charters, or ordinances or issue regulations imposing more stringent standards that do not conflict; the law specifically mentions political subdivisions creating recordkeeping thumbprint requirements and/or reporting requirements. A political subdivision must provide a minimum 30-day notice followed by public hearing prior to enacting a

prohibition on the sale or use of a recyclable product. Political subdivisions may not enact limits on cash payments after January 1, 2011.

[back to top](#)

References and Recent Amendments

Statutes

- [Texas Occupations Code, Title 12, Subtitle B, Ch. 1956](#). Metal Recycling Entities; § 1956.001 to § 1956.204
- [Texas Government Code Ch. 411](#). Department of Public Safety of the State of Texas
 - [Subchapter O](#). Prevention of Scrap Metal Theft Grant Program; § 411.421 to § 411.422
 - [Subchapter Q](#). Powers and Duties Related to Certain Regulatory Programs; § 411.501 to § 411.512 (Note: 2 other Subch. Qs were also created in 2019)
 - [Subchapter R](#). Administrative Penalty

Regulations

- [Texas Administrative Code Title 37, Part 1, Ch. 36](#). Metals Recycling Entities
- Texas Dept. of Public Safety - [Texas Metals Program](#)

Recent Amendments

- [2013 Texas HB 555](#) (effective September 1, 2013)
- [2015 Texas HB 2187](#) (effective September 1, 2015)
- [2017 Texas SB 208](#) (effective September 1, 2017)
- [2019 Texas HB 1545](#) (effective September 1, 2021)
- [2019 Texas SB 616](#) (effective September 1, 2019, except that proceedings initiated before the effective date are governed by the law in effect on the date the proceeding was initiated)

[back to top](#)

UTAH

Utah Code Title 76, Ch. 6, Part 14
Regulation of Metal Dealers
§ 76-6-1401 to § 76-6-1409

Utah Code Title 76, Ch. 6, Part 4, § 76-6-412.5
Property Damage Caused in the
Course of Committing a Theft

Utah Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Suspect Metal Items - Additional Recordkeeping](#)
- [Special Recordkeeping/Payment Requirements](#)
- [Retention](#)
- [Inspection](#)
- [Notice to Sellers](#)
- [Qualifications to Sell to Dealer](#)
- [Purchase Hours](#)
- [Hold](#)
- [Penalties](#)
- [Partial Preemption - Junk Dealers](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Regulated Metal" includes any item composed primarily of nonferrous metal as well as following, but excludes ferrous metals not listed, household-generated recyclables, items composed wholly of light iron or sheet steel, aluminum beverage containers, or containers used solely for containing food:

- Aluminum, brass, copper, lead, chromium, tin, nickel, or alloys, and lead that is a part of an automotive or industrial lead battery;
- Property that is a Regulated Metal and that is owned by, and also identified by marking or other means as the property of a utility or a railroad company;
- Unused and undamaged building construction materials made of metal or alloy (specifically lists copper pipe, tubing, or wiring, and aluminum wire, siding, downspouts, or gutters as examples of included property);
- Oil well rigs, including any part of the rig;
- Nonferrous materials, stainless steel, and nickel; and
- Irrigation pipe.

"Ferrous Metal" means a metal that contains significant quantities of iron or steel.

"Nonferrous Metal" means a metal that does not contain significant quantities of iron or steel, including copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

"Suspect Metal Items" are the following items made of regulated metal:

- Manhole covers and sewer grates;
- Gas meters and water meters;
- Traffic signs, street signs, aluminum street light poles, communications transmission towers, and guard rails;
- Grave site monument vases and monument plaques;
- Any monument plaque;

- Brass or bronze bar stock and bar ends;
- Ingots;
- Nickel and nickel alloys containing greater than 50% nickel;
- #1 and #2 copper as defined by the most recent ISRI Scrap Specifications Circular;
- Unused and undamaged building materials, including: greenline copper; copper pipe, tubing, or wiring; and aluminum wire, siding, downspouts, or gutters;
- Catalytic converters;
- Automotive and industrial lead batteries; and
- Wire that has been burned or that has the appearance of having been burned.

"Catalytic Converter" means a motor vehicle exhaust system component that reduces vehicle emissions by breaking down harmful exhaust emissions.

A Manhole cover or sewer grate, an electric light pole, or a guard rail is subject to special recordkeeping requirements and payment restrictions.

"Dealer" means any scrap metal processor, secondary metals dealer or recycler, or a metals refiner, but does not include:

- Junk dealers;
- Solid waste management facilities as defined in [§ 19-6-502](#); or
- The following businesses that are authorized to accept delivery of used lead batteries for recycling under [§ 19-6-603](#), [§ 19-6-604](#), and [§ 19-6-605](#): Retailers, wholesalers, battery manufacturers, and secondary lead smelters.

"Scrap Metal Processor" means any person who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel, or nonferrous scrap into prepared grades; and whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

"Secondary Metals Dealer or Recycler" means any person who is engaged in the business of purchasing, collecting, or soliciting regulated metal; or operates or maintains a facility where regulated metal is purchased or kept for shipment, sale, transfer, or salvage.

"Metals Refiner" means an individual or business that refines or melts any Regulated Metal, but does not include an individual or business that primarily uses ore, concentrate, or other primary materials in refining, melting, or producing any Regulated Metal.

"Junk Dealer" means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand or castoff material, including ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials, but not including Regulated Metal.

"Identification" means a United States' state or federal government issued form of ID with a numerical identifier, photograph, and date of birth of the person identified.

[back to top](#)

Exemptions

From the [Recordkeeping](#) provision and the [Special Recordkeeping and Payment Requirements](#) provision (covering certain government property or "Suspect Metal"), the law exempts a business with an established account if the business has a valid business license and one of the following apply:

- The Dealer has a statement on file identifying employees authorized to sell metals, conducts regulated metal transactions only with identified employees; and records the name of the employee when recording the transaction;
- The Dealer has on file reasonable documentation from the business that any person verified as representing the business as an employee, and whom the dealer has verified is an employee, may sell regulated metal; or
- The dealer pays by issuing a check to the business employing the Seller.

[back to top](#)

Recordkeeping

Dealers must record the following in English in a written or electronic log for each transaction of regulated metal:

- A complete description of the regulated metal, including weight and metallic description, in accordance with scrap metal recycling industry standards;
- The full name and residence of each person selling the regulated metal;
- The vehicle type and license number of the vehicle transporting the metal;
- The price per pound and amount paid for each type of regulated metal purchased;
- Date, Time, and Place of the purchase;
- The type and identifying number of a form of identification that is a valid United States federal or state-issued photo ID, which includes a drivers license, a U.S. passport card, or a U.S. military identification card;
- The Seller's signature on a certificate stating the Seller's legal right to sell;
- One of the following:
 - A digital photo or still video of the Seller taken at the time of the sale; or
 - A clearly legible copy of the Seller's identification.

For repeat Sellers using the same delivery vehicle, A Dealer may maintain the record information provided above from an initial transaction and relate subsequent transactions to that initial record, except for each transaction the Dealer must also record:

- A photograph of the Seller; and
- A signature of the Seller

[back to top](#)

Suspect Metal Items - Additional Recordkeeping

For purchases of Suspect Metal Items, Dealers must also obtain the following information in writing provided by the owner of the item:

- The Owner's telephone number;
- The Owner's business or residential address, which may not be a post box;
- A copy of the Owner's driver license; and

- A signed statement that the person is the lawful owner and authorizes the Seller, identified by name, to sell the suspect metal.

[back to top](#)

Special Recordkeeping/Payment Requirements

For purchases of a manhole cover or sewer grate, an electric light pole, or a guard rail, in addition to the recordkeeping requirements for Regulated Metals, a Dealer must either:

- Collect and retain reasonable documentation that the Seller is an employee, agent, or contractor of a governmental entity and is authorized to sell on their behalf; or
- Pay the government entity by check.

[back to top](#)

Retention

Records must be retained for at least 3 years from the date of entry.

[back to top](#)

Inspection

Records must be open to inspection during regular business hours by the following officers with jurisdiction over the Dealer's business area: county sheriff or deputies; any law enforcement agency; and any constable or other state, municipal, or county official in the county in which the dealer does business. Upon request, the Dealer shall make records available for inspection by any law enforcement agency during regular business hours.

[back to top](#)

Notice to Sellers

Dealers must maintain at their place of business the following clearly legible notice in 2 inch high lettering in a prominent place in open view to a Seller of Regulated Metal:

A PERSON ATTEMPTING TO SELL ANY REGULATED METAL MUST PROVIDE IDENTIFICATION AS REQUIRED BY STATE LAW.

[back to top](#)

Qualifications to Sell to Dealer

A Dealer may not purchase Regulated Metal from a person who is younger than 18 or who fails to provide the information required under the Recordkeeping provision.

[back to top](#)

Purchase Hours

A Dealer may only purchase Regulated Metal between 6 AM and 7 PM.

[back to top](#)

Hold

A Dealer must hold Regulated Metal for 60 days after receiving a written hold notice from a law enforcement agency that identifies the items alleged stolen and subject to the hold and informs the dealer of the hold requirements. The hold may be released earlier by the law enforcement agency or by order of a court of competent jurisdiction. On the expiration of the hold notice period the hold is automatically released, and the Dealer may dispose of the Regulated Metal unless otherwise directed by a court of competent jurisdiction.

[back to top](#)

Penalties

Any Dealer who violates the law is guilty of a class C misdemeanor and subject to a mandatory fine of no less than \$750 if convicted, or a class A misdemeanor for a subsequent violation and a mandatory fine of no less than \$2,500 if convicted.

Any Seller who, in providing the information required, willfully makes a false statement or provides untrue information is guilty of a class B misdemeanor and subject to a mandatory fine of no less than \$1,000 if convicted, or a class A misdemeanor for a subsequent violation and a mandatory fine of no less than \$2,500 if convicted.

A Seller or Dealer may be charged with any other criminal offense related to obtaining, possessing, or selling stolen Regulated Metals.

Under [§ 76-6-412.5](#), a person who commits or attempts a theft of Regulated Metal and causes damage to any person's real or personal property other than the Regulated Metal in the course of the theft is liable for restitution of all costs incurred due to the damage.

[back to top](#)

Partial Preemption

The law does not impair the authority of a county or municipality:

- To license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions of the state law; or
- To revoke or deny any business license or permit required by the county or municipality to sell, purchase, or possess metal, including for a violation of state law.

[back to top](#)

References and Recent Amendments

Statutes

- [Utah Code Title 76, Ch. 6, Part 14](#) Regulation of Metal Dealers; § 76-6-1401 to § 76-6-1409
- [Utah Code Title 76, Ch. 6, Part 4, § 76-6-412.5](#). Property damage caused in the course of committing a theft.

Recent Amendments

- [2014 Utah SB 92](#) (effective 60 days after the 2014 session adjournment)
- [2015 Utah HB 84](#) (effective 05/11/15)
- [2016 Utah HB 269](#) (effective 05/10/16)

[back to top](#)

VERMONT

Vt. Stat. Ann. Title 9, Part 4, Chapter 82
Scrap Metal Processors
9 V.S.A. § 3021 to 9 V.S.A. § 3023

Vermont Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Hold](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metal" means any manufactured item or article that contains metal.

"Ferrous Scrap" means any Scrap Metal consisting primarily of iron, steel, or both, including large manufactured articles such as automobile bodies that may contain other substances to be removed and sorted during normal processing operations of Scrap Metal.

"Nonferrous Scrap" means any Scrap Metal consisting primarily of metal other than iron or steel, and does not include aluminum beverage cans, post-consumer household items, items removed during building renovations or demolitions, or large manufactured items containing small quantities of nonferrous metals such as automobile bodies and appliances.

"Metal Article" means any manufactured item consisting of metal that is usable for its originally intended purpose without processing, repair, or alteration, including railings, copper or aluminum wire, copper pipe and tubing, bronze cemetery plaques, urns, markers, plumbing fixtures, and cast-iron radiators.

"Proprietary Article" means any of the following:

- Any Metal Article stamped, engraved, stenciled, or marked as being or having been the property of a governmental entity, public utility, or a transportation, shipbuilding, ship repair, mining, or manufacturing company;
- Any hard-drawn copper electrical conductor, cable, or wire greater than 0.375 inches in diameter, stranded or solid;
- Any aluminum conductor, cable, or wire greater than 0.75 inches in diameter, stranded or solid;
- Metal beer kegs;
- Manhole covers; or
- Catalytic converters.

"Railroad Scrap" means any Scrap Metal consisting primarily of the steel components used in rolling stock and railroad tracks, including rails, joint bars, tie plates, anchors, turnouts, frogs, and spikes, as well as railroad signals and signal components.

"Scrap Metal Processor" means:

- A salvage yard, as defined in 24 V.S.A. § 2241(7); or
- A person engaged in purchasing Ferrous or Nonferrous Scrap, Metal Articles, or Proprietary Articles, whether for resale or for processing into raw material products consisting of prepared grades.

"Scrap Metal Processor" does not include:

- A salvage yard as described in 24 V.S.A. § 2248(e); or
- A salvage yard or dealer that only accepts or dismantles motor vehicles and flattens or crushes the vehicles for transport to a Processor.

[back to top](#)

Recordkeeping

For Nonferrous Scrap, Metal Articles, Proprietary Articles, and Railroad Scrap, a Processor must record in a permanent ledger:

- The Seller's full name, current address, and date of birth from a current government-issued photo ID;
- Time and Date of the transaction;
- License number of the Seller's vehicle;
- Description of the items received;
- If available, documentation establishing that the Seller lawfully owns the material, such as a bill of sale, receipt, letter of authorization, or similar. If ownership documentation is not provided, Reporting and Hold provisions apply.

[back to top](#)

Retention

Records must be retained at least 5 years at the Processor's normal place of business or other readily accessible and secure location.

[back to top](#)

Inspection

Records shall be made available on request to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the Scrap Metal Processor's business location during regular business hours.

[back to top](#)

Reporting

If the Seller does not provide ownership documentation, a Processor must submit a report to the Department of Public Safety by the close of the following business day that describes the material and the Seller's identifying information.

[back to top](#)

Hold

If the Seller does not provide ownership documentation, a Processor must hold the material for at least 10 days following the purchase.

[back to top](#)

Penalties

A processor who violates the provisions shall be fined:

- 1st offense: a civil penalty not to exceed \$1,000 for each transaction;
- 2nd or subsequent: fined not more than \$25,000 for each transaction.

[back to top](#)

References and Recent Amendments

Statutes

- [Vt. Stat. Ann. Title 9, Part 4, Ch. 82](#): Scrap Metal Processors; 9 V.S.A. § 3021 to 9 V.S.A. § 3023

Recent Amendments

- [2014 Vermont HB 872](#) (effective July 1, 2014)

[back to top](#)

VIRGINIA

Va. Code Ann. Title 59.1, Chapter 9, Article 4
Scrap Metal Purchasers;
§ 59.1-136.1 to § 59.1-136.7

Virginia Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Proprietary Articles - Additional Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Hold](#)
- [No Purchase from Minors](#)
- [Penalties](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metal" means any metal that is no longer used for its original purpose and that can be processed for reuse in mills, foundries, and other manufacturing facilities.

"Ferrous Scrap" means any Scrap Metal consisting primarily of iron, steel, or both, but excluding any Scrap Metal consisting primarily of stainless steel. Ferrous scrap includes large manufactured articles such as automobile bodies that may contain other substances to be removed and sorted during normal operations of Scrap Metal Processors.

"Nonferrous Scrap" means any Scrap Metal consisting primarily of stainless steel or of any metal other than iron or steel. Nonferrous Scrap does not include:

- Aluminum beverage cans;
- Postconsumer household items such as pots, pans, barbecue grills, and lawn chairs;
- Used flashing removed during building renovation or demolition; or
- Small quantities of nonferrous metals contained in large manufactured articles.

"Metal Article" means any manufactured item, consisting of metal, that is usable for its originally intended purpose without processing, repairs, or alteration and that is not otherwise excluded by the definitions in this section. Examples include, without limitation, railings, copper or aluminum wire, copper pipe and tubing, plumbing fixtures, copper and aluminum gutters, copper and aluminum downspouts, and cast-iron radiators.

"Proprietary Article" means:

- Any metal article stamped, engraved, stenciled, or otherwise marked to identify it as property of a governmental entity or public utility, or transportation, shipbuilding, ship repair, mining, or manufacturing company;
- Any hard drawn copper electrical conductor, cable, or wire that is 3/8" or greater in diameter, stranded or solid;

- Any aluminum conductor, cable, or wire that is 3/4" or greater in diameter, stranded or solid;
- Stainless steel beer kegs;
- Any catalytic converter detached from a motor vehicle;
- Any telecommunications cable that is 1/2 of one inch or greater in diameter and that contains 50 or more individual strands of solid, insulated, color-coded copper wire, including cable that has been unsheathed or burned;
- Any manhole cover;
- Any bronze or copper cemetery plaque, urn, or marker;
- Aluminum bleacher seats or guardrails; or
- Any mining cable that is 1/2" or greater in diameter and is composed of one or more stranded copper conductors and stamped, engraved, stenciled, or otherwise marked with "Mine Safety and Health Administration" or "MSHA."

"Scrap Metal Purchaser" means any person or business, other than an Authorized Scrap Seller or a Broker buying or selling processed Scrap Metal, who purchases Scrap Metal either directly or through an authorized agent in excess of \$20,000 during any 12-month period.

"Scrap Metal Processor" means a business entity in good standing authorized to conduct business in the Commonwealth that regularly utilizes machinery and equipment at one or more established locations in the normal course of business for processing and manufacturing Scrap Metal into prepared grades for sale as raw material to mills, foundries, and other manufacturing facilities.

"Authorized Scrap Seller" means licensed plumbers, electricians, HVAC contractors, building and construction contractors, demolition contractors, construction and demolition debris contractors, public utilities, transportation companies, industrial and manufacturing companies, marine, automobile, and aircraft salvage and wrecking companies, and government entities.

"Broker" means any person or his authorized agent who negotiates, purchases, sells, or offers for sale any Scrap Metal either directly or through an authorized agent without obtaining title to or ownership of the Scrap Metal.

[back to top](#)

Exemptions

Exempts purchases of Ferrous Scrap, unless covered by another material definition, from all provisions except the No Purchase from Minors provision.

Exempts purchases from an Authorized Scrap Seller or from their authorized agent and employee from all provisions except the No Purchase from Minors provision.

Purchases by Scrap Metal Purchasers are exempt from the requirements of [Title 59.1, Ch. 9, Article 1](#). Building Fixtures (exempted by [§ 59.1-123.2](#).) and [Title 59.1, Ch. 9, Article 2](#). Equipment of Railroads and other Companies (exempted by [§ 59.1-129.B](#)).

[back to top](#)

Recordkeeping

A Scrap Metal Purchaser must record the following for any purchase of Nonferrous Scrap, Metal Articles, and Proprietary Articles:

- The Seller's full name, current address, date of birth, and social security or other recognized identification number from the Seller's current government-issued photo ID;
- The date and time of the transaction;
- The license number of the Seller's vehicle;
- A description of items received from the Seller.

[back to top](#)

Proprietary Articles - Additional Recordkeeping

For Proprietary Articles, a Purchaser must additionally record:

- One of the following:
 - The Seller's documentation establishing that the Seller lawfully possesses the articles, such as a bill of sale, receipt, letter of authorization, or similar; or
 - Document a "diligent inquiry" into whether the Seller has a legal right to sell;
- A photo or video of all Proprietary Articles purchased.

[back to top](#)

Retention

Records must be retained for at least 5 years at a Purchaser's normal place of business or at another readily accessible and secure location, except photos or videos of Proprietary Articles need only be retained for 30 days.

[back to top](#)

Inspection

Records must be available upon request to any law enforcement official, conservator of the peace, or special conservator of the peace appointed pursuant to § 19.2-13, in the performance of their duties who presents credentials at the Purchaser's normal business location during regular business hours.

[back to top](#)

Reporting

For Proprietary Articles purchased without documentation from the Seller establishing lawful possession, a Purchaser must submit a report to the local sheriff's department or chief of police by the close of the following business day with:

- A description of the Proprietary Article; and
- A copy of the Seller's identifying information.

If requested by the chief law enforcement officer of a Purchaser's business locality, every Purchaser conducting business in the locality shall furnish to the chief a report of all purchases of Nonferrous Scrap, Metal Articles, and Proprietary Articles, excluding aluminum cans and interior household items. Reports must be submitted in a form prescribed by the Virginia State Police and electronically if requested, on the next business day following the purchase, containing the following information:

- The Seller's name, date of birth, identification number, address, height, and weight;
- The license number of any motor vehicle the goods were delivered in.

[back to top](#)

Hold

For Proprietary Articles purchased without documentation from the Seller establishing lawful possession, a Purchaser must hold the articles for at least 15 days.

[back to top](#)

No Purchase from Minors

A Purchaser shall not purchase any Scrap Metal from any person under 18 years old.

[back to top](#)

Penalties

A Purchaser who negligently violates any provision may be assessed a civil penalty of up to \$7,500 for each violation. Any attorney for the locality where a violation occurred may bring a civil action to recover such a civil penalty, payable to the local treasury.

A Purchaser who knowingly violates a provision is guilty of a Class 1 misdemeanor.

[back to top](#)

References and Recent Amendments

Statutes

- [Va. Code Ann. Title 59.1, Ch. 9, Art. 4](#). Scrap Metal Purchasers; § 59.1-136.1 to § 59.1-136.7

Recent Amendments

- [2013 Virginia House Bill 1481](#) (effective July 1, 2013)

[back to top](#)

WASHINGTON

Wash. Rev. Code Title 19, Chapter 19.290
Metal Property
§ 19.290.010 to §19.290.901

Washington Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping - General Public](#)
- [Private or Commercial Metal Property](#)
- [Recordkeeping - Commercial Accounts](#)
- [Payment Restrictions/Add. Recordkeeping](#)
- [Retention](#)
- [Inspection](#)
- [Reporting](#)
- [Tag and Hold](#)
- [Burned Metallic Wire](#)
- [Beer Kegs](#)
- [No Buy List](#)
- [No Buy List Database](#)
- [Scrap Theft Alerts](#)
- [Licensing](#)
- [Dept. of Licensing Powers](#)
- [Penalties](#)
- [Seizure of Property](#)
- [Metal Theft Enforcement Grants](#)
- [Severability](#)
- [Liberal Construal](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions (edited for clarity and conciseness)

Covered Metal Property, as used in this summary, refers to an item of Private Metal Property, Nonferrous Metal Property, or Commercial Metal Property.

"Nonferrous Metal Property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys. Excludes Precious Metals (gold, silver, and platinum).

"Private Metal Property" means catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity.

"Commercial Metal Property" means:

- Utility access covers;
- Street light poles and fixtures;
- Road and bridge guardrails;
- Highway or street signs;
- Water meter covers;
- Traffic directional and control signs;
- Traffic light signals;
- Any metal property marked with the name of a Commercial Enterprise;
- Unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters;
- Aluminum or stainless steel fence panels made from 1 inch tubing, 42 inches high with 4-inch gaps;

- Aluminum decking, bleachers, or risers;
- Historical markers;
- Statue plaques;
- Grave markers and funeral vases; or
- Agricultural irrigation wheels, sprinkler heads, and pipes.

"Scrap Metal Business" means one of the following:

- "Scrap Metal Processor": a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving Covered Metal Property for altering the metal in preparation for its use as feedstock in the manufacture of new products, and that maintains a hydraulic bailer, shearing device, or shredding device for recycling.
- "Scrap Metal Recycler": a person with a current business license that is engaged in the business of purchasing or receiving Covered Metal Property for aggregation and sale to another Scrap Metal Business and that maintains a fixed place of business within the state.
- "Scrap Metal Supplier": a person with a current business license that is engaged in the business of purchasing or receiving Private or Nonferrous metal property for aggregation and sale to a Scrap Metal Recycler or Scrap Metal Processor and that does not maintain a fixed business location in the state.

"Engage in business" means more than 12 transactions in a 12-month period.

"Commercial Enterprise" means a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity.

"Commercial Account" means a relationship between a Scrap Metal Business and a Commercial Enterprise that is ongoing and properly documented.

"Transaction" means a pledge, purchase or trade of Private or Nonferrous Metal Property by a Scrap Metal Business from a member of the general public. Excludes donations or the purchase or receipt of Private or Nonferrous Metal Property from a Commercial Enterprise, another Scrap Metal Business, or a duly authorized employee or agent of such.

[back to top](#)

Exemptions

The Recordkeeping - General Public and the Payment Restrictions provisions exempt donations or the purchase or receipt of Nonferrous or Private Metal Property by a Scrap Metal Business involving a Commercial Enterprise, another Scrap Metal Business, or a duly authorized employee or agent of such.

Excludes transactions involving metal from the components of vehicles acquired by vehicle wreckers, hulk haulers, or scrap processors licensed under § 46.79 or § 46.80 and acquired in accordance with such or transactions conducted by:

- Motor vehicle dealers licensed under § 46.70

- Persons operating an automotive repair facility as defined under § 46.71.011; or
- Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

[back to top](#)

Recordkeeping - General Public

A Scrap Metal Business must create an accurate and legible English record of each purchase, pledge, or trade of Nonferrous or Private Metal Property from a member of the general public. The record must be on a standardized or electronic form with the following:

- The Seller's signature;
- The time, date and location;
- The value of the transaction;
- The name of the employee representing the Scrap Metal Business;
- The Seller's name, street address, and telephone number;
- The license plate number, state of issue, and a description of the delivery vehicle;
- Either a copy of or the identification number from the Seller's government-issued photo ID card;
- A description of the predominant types of property using ISRI's generally accepted terminology, and including weight, quantity, or volume;
- A declaration on the record or transaction receipt, signed and dated by the Seller and witnessed and signed by the employee conducting the transaction, substantially stating the following:

"I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

[back to top](#)

Private or Commercial Metal Property

A Scrap Metal Business may not purchase or receive Private or Commercial Metal Property unless one of the following applies:

- The Seller has a Commercial Account with the Scrap Metal Business;
- The Seller produces written documentation proving the Seller is the owner; or
- The Seller produces written documentation proving the Seller is an employee or agent authorized to sell on behalf of a Commercial Enterprise.

[back to top](#)

Recordkeeping - Commercial Accounts

A Scrap Metal Business must create a permanent record with a Commercial Enterprise, including another Scrap Metal Business, with the following information to create a Commercial Account:

- The full name of the Commercial Enterprise or Account;
- The business address and phone number of the Commercial Enterprise or Account;
- The full name of the employee authorized to deliver Covered Metal Property;
- The time and date property was purchased or received;
- The value of the transaction;
- The signature of the Deliverer.

[back to top](#)

Payment Restrictions/Additional Recordkeeping

Except as provided below, no cash payments for Private Metal Property or Nonferrous Metal Property; payments must be by a nontransferable check, mailed to a street address provided for the records no earlier than three days after the transaction date.

Up to \$30 may be paid in cash, stored value device, or electronic funds transfer, with the balance made by nontransferable check, stored value device, or electronic funds transfer at the time of the transaction, if the Scrap Metal Business additionally records the following:

- A digitally captured copy of the Seller's current government-issued picture identification; and
- Either a picture or video of either the property in the form received or of the property within the delivery vehicle, with video surveillance sufficient as long as the video captures the property.

[back to top](#)

Retention

Records must generally be retained for 5 years wherever that business is conducted, except that where a Scrap Metal Business takes a digital image or video in order to utilize the exemptions on Payment Restrictions above:

- A digital image or picture of the property must be retained for 2 years;
- A video of the property must be retained for 30 days;

Commercial Account records must be retained for 3 years.

[back to top](#)

Inspection

Records must be open at all times during ordinary business hours, or at reasonable times if ordinary hours are not kept, for inspection by any commissioned law enforcement officer of the state or any of its political subdivisions.

License certificates may be inspected by an investigating officer at any time. Licensed premises and records may be inspected during normal business hours by chiefs of police, county sheriffs, the Washington state patrol, or an authorized agent of the Department of Licensing, and are subject to unannounced periodic inspections.

[back to top](#)

Reporting

A Scrap Metal Business with good cause to believe that any Covered Metal Property in its possession was previously lost or stolen must promptly report the following to the applicable commissioned law enforcement officer of the state, the chief of police, or the county's chief law enforcement officer:

- The name of the owner of the property, if known;
- The date the property was received;
- The name of the Seller.

Upon request by any commissioned law enforcement officer of the state or any political subdivision, every Scrap Metal Business must furnish record transcripts involving only a specified individual, vehicle, or item. Such reports must be transmitted within 2 business days electronically, by fax, modem or similar, or by delivery of a computer disk subject to the requirements and approval of the chief of police or county's chief law enforcement officer. Reports are exempt from disclosure under § 42.56.

Compliance with the Reporting requirements shall not give rise to or form the basis of private civil liability on the part of a Scrap Metal Business.

[back to top](#)

Tag and Hold

Following written notice from a commissioned law enforcement officer of the state or a political subdivision that an item of Covered Metal Property has been reported stolen, a Scrap Metal Business must tag and hold the item up to 10 business days. An officer may only place a hold if their agency reasonably suspects the property is a lost or stolen item. If an item is determined not stolen or lost, any hold must be removed within 10 business days and the property returned to the owner or released.

[back to top](#)

Burned Metallic Wire

No purchase or receipt of metallic wire burned in whole or in part to remove insulation unless the Seller produces written proof the wire was lawfully burned.

[back to top](#)

Beer Kegs

A Scrap Metal Business may only purchase or receive beer kegs from a beer keg manufacturer or a licensed brewery.

[back to top](#)

No Buy List

A Scrap Metal Business may not purchase or receive Covered Metal Property from a person, whether the person is acting on their own or as an agent of another, if the business was informed by a law enforcement agency that the person was convicted of a crime involving one of the following within the past 4 years:

- Drugs, burglary, robbery, theft, or possession of or receiving stolen property,
- Manufacturing, delivering, or possessing with intent to deliver methamphetamine,
- Possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine.

[back to top](#)

No Buy List Database

Beginning July 1, 2014, when funded, the Washington Association of Sheriffs and Police Chiefs shall create and operate an ongoing web-accessible No Buy List database. The database must allow any Scrap Metal Business to enter a customer's name and date of birth and determine whether the customer has been convicted of a crime in Washington involving burglary, robbery, theft, or possession or receiving stolen property within the past 4 years, and send the Business an

alert if the customer is on the No Buy List. A Scrap Metal Business must check the No Buy List before completing any Covered Metal transaction. The Association is not liable for civil damages from an act or omission in carrying out the list unless it is gross negligence or willful or wanton misconduct.

[back to top](#)

Scrap Theft Alerts

Law enforcement agencies may register with ISRI's Scrap Theft Alert system to receive alerts on thefts of Covered Metal in the relevant area.

Any licensed Scrap Metal Business must sign up with ISRI's Scrap Theft Alert system to receive alerts, download the alerts on a general basis, use the alerts to identify potentially stolen Covered Metal Property, and maintain copies of any theft alerts for 90 days.

[back to top](#)

Licensing

A Scrap Metal Business must be licensed by the Department of Licensing, with licenses valid for 1 year. An application must include the following:

- Signature of the licensee or their authorized agent;
- Name and address of the person, firm, partnership, association, limited liability company, or corporation under which name the business is to be conducted;
- Names and residence addresses of all persons with an interest in the business, or for a corporation, the officers;
- A Certificate of Approval from the chief executive officer or chief of police of an incorporated area or sheriff of a county, or their designee, or an authorized representative of the Department of Licensing, certifying that:
 - The applicant has an established place of business at the address shown;
 - There are no environmental, building code, zoning, or other land use regulation violations associated with the business; and
 - For a renewal, that the applicant is in compliance with the law.
 - Any other information that the Department of Licensing may require.

A Scrap Metal Processor or Recycler (but not a Supplier) must also file a \$10,000 surety bond filed with the Department of Licensing, from which any person who has suffered loss or damage by reason of fraud, gross negligence, or an intentional or reckless violation of the law, or misrepresentation by the Processor or Recycler, may institute an action for recovery. The aggregate liability of the surety shall not exceed the bond.

The Scrap Metal Business must prominently display its license certificate in the place of business. A licensee must also obtain special license plates for their vehicles, for a fee of \$5 for the original plates and \$2 for each additional set with the same number. A licensee with multiple locations may use vehicles with the special plates out of any licensed location.

[back to top](#)

Department of Licensing Powers

The Director of Licensing may adopt reasonable rules and regulations that do not conflict with the law, and set forth all licensing and renewal fees.

The Department of Licensing or its authorized agent may examine or subpoena any persons, books, papers, records, data, vehicles, or metal property bearing upon an investigation or proceeding under the law. The Director of Licensing or an authorized agent may administer an oath to testify under penalty of perjury in the first degree. The Director or an authorized agent may also obtain a superior court order approving and authorizing a subpoena in advance, without prior notice to the person being subpoenaed or investigated.

[back to top](#)

Penalties

Engaging in business as a Scrap Metal Business without a license is a gross misdemeanor, or a class C felony for a second or subsequent offense. Unlicensed practice, the issuance and denial of license, and the discipline of licensees is covered by § 18.235. The Department of Licensing may refuse to issue a license if the license is filed by or on behalf of an applicant has previously had a license canceled, or if the Department is of the opinion the application is not filed in good faith.

It is a gross misdemeanor punishable under § 9A.20 for:

- Any person to deliberately remove, alter, or obliterate any identifying marks engraved or etched upon an item in order to deceive a Scrap Metal Business;
- Any Scrap Metal Business to purchase or receive an item where any engraved or etched identifying marks have been deliberately and conspicuously removed, altered, or obliterated;
- Any person to knowingly make, cause, or allow a false entry or misstatement of any material matter in a required record;
- Any Scrap Metal Business to purchase or receive an item in violation of the Do Not Purchase From List provision;
- Any person to sign a declaration that property was not stolen while knowing it was stolen; such is also evidence of intent to defraud a Scrap Metal Business;
- Any Scrap Metal Business to engage in a series of transactions under \$30 with the same Seller to avoid compliance with the Payment Restrictions provision;
- Any person to knowingly make a false or fictitious oral or written statement or furnish or exhibit false, fictitious, or misrepresented identification to deceive a Scrap Metal Business as to the identity of the Seller.

Each violation not subject to the criminal penalties above is punishable by a fine of up to \$1,000, or up to \$2,000 for a subsequent violation within 2 years of the previous.

Under [§ 9A.56](#), theft of Covered Metal Property is theft of the first degree if the costs of the damage to the owner's property exceed \$5,000 in value, or theft of the second degree if costs exceed \$750 but do not exceed \$5,000.

[back to top](#)

Seizure of Property

For a crime involving theft, trafficking, or unlawful possession of Commercial Metal Property of at least a class C felony, the following property is subject to seizure:

- Personal Property used or intended for use by the owner or person in charge to knowingly and intentionally facilitate or abet such a crime;
- Personal Property furnished or intended to be furnished as compensation for such;
- Real or Personal Property acquired in whole or part with proceeds traced to such,
- Real Property used with the actual and constructive knowledge of the owner for the intentional commission of such a crime.

Seizure does not apply to:

- A vehicle used by a person as a common carrier unless the owner or person in charge is proved to be a consenting party or privy to the crime;
- Real or personal property subject to the interest of a secured party if the party had no actual or constructive knowledge of and did not consent to such a crime;
- Real or personal property that was used by the owner's employee or agent in such a crime in violation of the owner's instructions or policies against such and without the owner's knowledge or consent;

A law enforcement officer acting under a process from a superior court with jurisdiction may seize property. Seized real property shall not be transferred for 90 days or until a judgment of forfeiture is entered, whichever is later. Personal property may be seized without process if the seizure is incidental to an arrest, a search under a search warrant, or the property was subject to a prior criminal judgment or forfeiture in favor of the state.

The seizing agency must serve notice within 15 days to the owner, the person in charge of the property, and anyone with a known right or interest to the property. Notices for real property must be served in accordance to the rules of civil procedure, except the state may not obtain a default judgment against a person served by substitute service without an affidavit of a good faith effort to check if the person was incarcerated in the state.

Unless someone notifies the seizing agency in writing of a claim to the property within 45 days for personal property or 90 days for real property, the item shall be deemed forfeited. A person asserting a claim may be heard before the chief law enforcement officer of the seizing agency, their designee, or an administrative law judge. The claimant may insist on a court hearing, but must serve process according to the law. In a court hearing between two or more claimants, the prevailing party is entitled to costs and reasonable attorney's fees.

Property that is lawfully seized may be retained for official use, released to another law enforcement agency, or sold if not required to be destroyed by law, with 50% of the net proceeds remitted to any known victim of the crime involving the seized property.

[back to top](#)

Metal Theft Enforcement Grants

The Washington Association of Sheriffs and Police Chiefs shall establish a grant program to assist local law enforcement in targeting metal theft, with administration costs not exceeding the greater of \$60,000 or 3% of appropriated funding. Grant awards may not supplant preexisting funding sources for metal theft enforcement. Applicants must:

- Show a significant metal theft problem in the jurisdiction(s) receiving the grant;
- Verify that awards are sufficient to cover increased costs;
- Design an enforcement program that best suits their jurisdiction(s) specific metal theft problem;
- Demonstrate community coordination focusing on prevention, intervention, and suppression; and
- Collect data on performance.

[back to top](#)

Severability

If any provision or its application to a person or circumstance is held invalid, the remainder of the law or its application to other persons or circumstances is not affected.

[back to top](#)

Liberal Construal

The law shall be liberally construed to prevent traffic in stolen metal property, to prevent irresponsible, unreliable, or dishonest persons from engaging as a Scrap Metal Business, and to encourage reliable persons to engage in a Scrap Metal Business.

[back to top](#)

Preemption

The regulation of Scrap Metal Businesses is preempted by the state. Any political subdivision may only enact or enforce laws and ordinances related to such that are specifically authorized by and consistent with the law. Nothing in the law is intended to limit a political subdivision's authority to impose zoning, land use, permitting, general business licensing, environmental, and health and safety requirements or authorized business taxes within their jurisdictions. Local ordinances must have the same or lesser penalty as provided by state law; local ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law are preempted and repealed.

[back to top](#)

References and Recent Amendments

Statutes

- [Wash. Rev. Code Title 19, Chapter 19.290](#) Metal Property; § 19.290.010 to § 19.290.901

Recent Amendments

- [2013 Washington HB 1552](#)

[back to top](#)

WEST VIRGINIA

Scrap Metal

W. Va. Code Ch. 61, Article 3
§ 61-3-49 and § 61-3-49b

Railroad Scrap Metal

W. Va. Code Ch. 31, Article 2
§ 31-2-17

Registration Prohibition

W. Va. Code Ch. 11, Article 12
§ 11-12-5a

West Virginia Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Materials Covered and Other Definitions](#)
- [Exemptions](#)
- [Registration](#)
- [Recordkeeping](#)
- [Purchase Restriction - Beer Kegs](#)
- [Purchase Restrictions - Listed Items](#)
- [Retention/Reporting](#)
- [Inspection](#)
- [Return of Scrap Metal](#)
- [Penalties](#)
- [Agreement with Law Enforcement](#)
- [Railroad Scrap Metal](#)
- [References and Recent Amendments](#)

Materials Covered and Other Definitions

"Scrap Metal" means any nonferrous metal of any kind, a catalytic converter or any materials derived from a catalytic converter, or steel railroad track and track material.

"Scrap Metal Dealer" is used but undefined. "Purchaser" means any person in the business of purchasing scrap metal or used auto parts, any salvage yard owner or operator, or any public or commercial recycling facility owner or operator, or any agent or employee thereof, who purchases any form of scrap metal or used auto parts.

As used in [§ 31-2-17](#), "Railroad Scrap Metal" means any materials derived from railroad track, railroad track material, worn or used links, pins, journal bearings, or other worn, used, or detached appendages of railroad equipment or railroad track.

[back to top](#)

Exemptions

The following are exempted:

- Purchases by manufacturing facilities that melt, or otherwise alter the form of scrap metal and transform it into a new product;
- Food and beverage containers or other nonindustrial materials having a marginal value per individual unit;
- Purchasers of catalytic converters when the catalytic converter is:
 - Installed on a vehicle;
 - Intended for installation on a vehicle owned or leased by the purchaser; or
 - Purchased for personal, family, household, or business use and not for resale.

[back to top](#)

Registration

A "scrap metal dealer" (undefined) must do all of the following:

- Have a current valid business registration certificate from the Tax Commissioner;

- Under [§ 11-12-5a](#), the Tax Commissioner shall require an applicant for a registration to own, conduct, or operate any business involving the purchase of scrap metal or the operation of any salvage yard or recycling facility to state that to the best of his or her knowledge and belief no person convicted in the previous 2 years of a 3rd or subsequent offense under §61-3-49 will hold a financial interest, be employed, or otherwise be involved in the day-to-day operations of said business.
- Register any scales used for weighing scrap metal with the Division of Labor Weights and Measures office;
- Provide a notice of recycling activity to the Department of Environmental Protection; and
- Register as a scrap metal dealer with the Secretary of State. The Secretary of State will make a list of registered Dealers publically available with a Dealer's business address, hours of operation, physical address, phone number, fax number, and the names of the owners or principal officers.

[back to top](#)

Recordkeeping

Purchasers of scrap metal must record the following for each transaction:

- Seller's full name, permanent home and business addresses, and telephone number, if available;
- A description and the license number of any vehicle used to transport the metal;
- Time and Date of the transaction;
- Description of the kind, character, and weight of the scrap metal purchased;
- Statement of whether the metal was purchased, taken as collateral for a loan, or taken on consignment.
- A signed certificate of ownership or a signed authorization to sell from the owner;
 - For Railroad Scrap Metal, the Seller's written evidence of authorization to sell (see [Railroad Scrap Metal](#) provision)
- A copy of the Deliverer's government-issued photo ID; or the Purchaser may reference an existing copy of the ID on file.

For deliveries of 5 or more non-exempt catalytic converters, the Seller shall also:

- Execute (sign) a document that the Seller is the lawful owner or is authorized by the lawful owner to sell; and
- Fingerprint: provide a clear impression of the Seller's index finger or thumb next to their signature.

For any purchases made at wholesale under a contract or as a result of a bidding process, instead of the record requirements above a Purchaser may retain the contract, bill of sale, or similar documentation of the purchase. The Purchaser may redact any pricing or other commercially sensitive information before making it available for inspection.

[back to top](#)

Purchase Restriction - Beer Kegs

A Purchaser may only purchase a stainless steel or aluminum beer keg or parts for reselling as scrap metal from the beer manufacturer or its authorized representative.

[back to top](#)

Purchase Restrictions - Listed Items

A scrap metal dealer may only purchase the following or any reasonably recognizable part thereof if the dealer obtains written documentation that the Seller is authorized to possess and sell the item or items and that the seller is in lawful possession of the item:

- Utility access covers;
- Street light poles or fixtures;
- Road or bridge guard rails;
- Water meter covers;
- Highway or street signs;
- Traffic directional or traffic control signs;
- Traffic light signals;
- Any metal marked with any form of the name or initials of a governmental entity;
- Property marked as or readily identifiable as owned by a telephone, cable, electric, water or other utility provider;
- Property owned and marked by a railroad;
- Cemetery markers or vases;
- Historical markers;
- Utility manhole covers and storm water grates; and
- Fire hydrant or fire hydrant caps; or
- Twisted pair copper telecommunications wiring of twenty- five pair or greater in nineteen, twenty-two, twenty-four or twenty-six gauge.

[back to top](#)

Retention/Reporting

Purchasers must either:

- Retain records at their place of business for 3 years after the date of purchase; or
- File records within 72 hours with the local detachment of the State Police and either the chief of police of the municipality or sheriff of the county where the Purchaser is transacting business. Law enforcement must retain for 3 years.

[back to top](#)

Inspection

If the Purchaser retains records, they must be available for inspection by any law enforcement officer or, upon written request and during the purchaser's regular business hours, by any investigator employed by a public utility or railroad to investigate the theft of public utility or railroad property. Such investigators may accompany law enforcement upon the premises of a purchaser in the execution of a valid warrant or assist law enforcement in the review of transaction records.

[back to top](#)

Return of Scrap Metal

Upon the entry of a final determination and order by a court of competent jurisdiction, scrap metal found to have been misappropriated, stolen or taken under false pretenses may be returned to the proper owner of such material.

[back to top](#)

Penalties

Violating the law with knowing or fraudulent intent, including knowingly failing to make a report or falsifying information, is a misdemeanor punishable by:

- 1st offense: \$1,000 to \$3,000 fine;
- 2nd offense: \$2,000 to \$4,000 fine and a 6 month suspension of any business registration certificate held by the person;
- 3rd or subsequent: \$3,000 to \$5,000 fine and cancellation of any business registration certificate held by the person.

[§ 11-12-5a](#) provides that no person may apply for a business registration certificate that would permit them to own, conduct, or operate any business involving the purchase of scrap metal or the operation or any salvage yard or recycling facility if:

- The person had a previous registration cancelled by the penalties of § 61-3-49; or
- A person convicted in the previous 2 years of a 3rd or subsequent offense of § 61-3-49 will hold a financial interest, be employed, or otherwise be involved in the day-to-day operations of the business.

A person having or taking possession of scrap metal, or a scrap metal dealer purchasing, possessing, or receiving scrap metal from a seller, when the person or dealer knows or has reason to know the metal has been stolen or unlawfully obtained, is guilty of a larceny.

§ 61-3-49b provides the following penalties for a person who causes a disruption of communications or public utility services by the theft or intentional damaging of equipment and causes either: a disruption of communication or public utility services to 10 or more households or subscribers; or a loss in the value of property of \$1,000 or more:

- 1st offense: misdemeanor, subject to 2,000 hours of court approved community service and/or a maximum \$10,000 fine;
- 2nd offense: felony, subject to 1 to 5 years imprisonment in a state correctional facility and/or a maximum \$10,000 fine;
- 3rd or subsequent: felony, subject to 1 to 10 years imprisonment in a correctional facility and/or a maximum \$10,000 fine.

[back to top](#)

Agreement with Law Enforcement

A Scrap metal dealer, pursuant to a written agreement with law-enforcement officials, is not prohibited from purchasing or taking possession of scrap metal the dealer knows or has reason to know has been stolen or obtained illegally.

[back to top](#)

Railroad Scrap Metal

As provided in [§ 31-2-17](#), Railroad Scrap Metal may only be sold by an authorized agent or employee of the company that owns it. A sale or disposition is void if the purchaser knowingly makes it with an unauthorized Seller. Railroad Scrap Metal must be:

- Sold in quantities of 1 ton or more;

- Accompanied by a bill of sale or other written evidence of authorization to sell, a copy of which must be retained by the purchaser and the Seller; and
- Comply with other lawful requirements regarding the sale and purchase of Railroad Scrap Metal.

In a civil suit between a purchaser and the formerly owning company:

- The company claiming rightful ownership of Railroad Scrap Metal may seek an immediate court ordered hold on the scrap and any other metals it may have been mixed with while the suit is pending.
- If a purchaser knowingly purchases Railroad Scrap Metal without attempting to check that the Seller is authorized, the owning company shall be rewarded costs and attorneys fees.
- A purchaser that cannot produce a copy of the authorization to sell shall be presumed to have unlawfully taken from the owning company. In absence of adequate proof to the contrary, the owning company is entitled to immediate possession of the material. If the Railroad Scrap Metal has been intentionally mixed with other scrap, the purchaser loses all rights to the mixed metal unless the Railroad Scrap can be identified and separated. Does not apply if an authorized Seller sells Railroad Scrap Metal in quantities of less than 1 ton or without providing a copy of their authorization to sell.

[back to top](#)

References and Recent Amendments

Statutes

- [W. Va. Code Ch. 61, Article 3](#). Crimes Against Property
 - [§ 61-3-49](#). Purchase of scrap metal by scrap metal purchasing businesses, salvage yards or recycling facilities; certificates, records and reports of such purchases; criminal penalties.
 - [§ 61-3-49b](#). Disruption of communications and utilities services.
- [W. Va. Code Ch. 11, Article 12, § 11-12-5a](#). Prohibition on certificate being obtained by person connected to illegal activities involving scrap metal.
- [W. Va. Code Ch. 31, Article 2; § 31-2-17](#). Selling railroad scrap metal.

[back to top](#)

WISCONSIN

Wis. Stat. Ch. 134, § 134.405
Purchase and sale of certain scrap material.
(as amended by 2018 Wisconsin SB 246 and SB 488)

Wisconsin Stat. Ch. 943, Subch. III., § 943.20
Theft

Wis. Stat. Ch. 895, Subch. I., § 895.09
Scrap metal or plastic bulk merchandise container theft;
civil liability.

Wisconsin Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Material Covered and Other Definitions](#)
- [Exemptions](#)
- [Recordkeeping](#)
- [Recordkeeping - Commercial Account](#)
- [Retention and Disclosure of Records](#)
- [Inspection](#)
- [Reporting](#)
- [No Purchase from Minors](#)
- [Penalties](#)
- [Preemption](#)
- [References and Recent Amendments](#)

Please Note: Amendments by [2018 Wisconsin SB 246](#), effective March 30, 2018, and [2018 Wisconsin SB 488](#), effective April 5, 2018, are included. SB 246 repealed § 134.405 (3m) Motor Vehicles, and related sections, and added scrap metal dealers to the definition of "motor vehicle salvage dealer" under [§ 218.20 \(1r\)](#) to clarify that purchases of motor vehicles fall under [§ 218.23](#).

[Wis. Stat. Ch. 285, Sec. 59](#); § 285.59: Air Pollution - Recovery of Ozone-Depleting Refrigerants, includes rules for the salvaging and dismantling of mechanical vapor compression refrigeration equipment that are not included in the summary below.

Material Covered and Other Definitions (edited for clarity and conciseness)

"Scrap Metal" means a Metal Article; metal removed from or obtained by cutting, demolishing, or disassembling a building, structure, or manufactured item; or other metal that is no longer used for its original intended purpose and that can be processed for reuse in a mill, foundry, or other manufacturing facility.

"Ferrous Scrap" means Scrap Metal, other than metal meeting another definition, consisting primarily of iron or steel, including large manufactured articles that may contain other substances to be removed and sorted during normal operations of Scrap Metal Dealers.

"Nonferrous Scrap" means Scrap Metal consisting primarily of metal other than iron or steel, but does not include any of the following:

- Aluminum beverage cans.
- Used household items.
- Items removed from a structure during renovation or demolition.
- Small quantities of nonferrous metals contained in large manufactured items.

"Metal Article" means a manufactured item that consists of metal, is usable for its original intended purpose without processing, repair, or alteration, and is offered for sale for the value of the metal it contains, except that "Metal Article" does not include antique or collectible articles, including jewelry, coins, silverware, and watches.

"Proprietary Article" means any of the following:

- A Metal Article stamped, engraved, stenciled, or otherwise marked to identify the article as the property of a governmental entity, telecommunications provider, public utility, cable operator, as defined in [§ 66.0420\(2\)\(d\)](#), or an entity that produces, transmits, delivers, or furnishes electricity, or transportation, shipbuilding, ship repair, mining, or manufacturing company.
- A copper conductor, bus bar, cable, or wire, whether stranded or solid.
- An aluminum conductor, cable, or wire, whether stranded or solid.
- A metal beer keg.
- A manhole cover.
- A metal grave marker, sculpture, plaque, or vase, if the item's appearance suggests the item has been obtained from a cemetery.
- A rail, switch component, spike, angle bar, tie plate, or bolt used to construct railroad track.
- A "Plastic Bulk Merchandise Container", meaning a plastic crate, pallet, or shell used by a product producer, distributor, or retailer for the bulk transport or storage of retail containers of bottled beverages.

"Scrap Dealer", or Dealer as used in this summary, means a Scrap Plastic Dealer or Scrap Metal Dealer.

- "Scrap Metal Dealer" means a person engaged in the business of buying or selling Scrap Metal.
- "Scrap Plastic Dealer" means a person engaged in the business of buying or selling plastic to be processed for reuse in a mill or other manufacturing facility.

"Commercial Enterprise" means a corporation, partnership, limited liability company, business operated by an individual, association, state agency, political subdivision, or other government or business entity, including a Dealer.

"Commercial Account" means a Commercial Enterprise with which a Dealer maintains an ongoing and documented business relationship.

[back to top](#)

Exemptions

A purchase of scrap other than Nonferrous Scrap, Metal Articles, or Proprietary articles by a scrap metal dealer is exempt from all but the No Purchase from Minors provision.

[back to top](#)

Recordkeeping

Unless the Seller is a Commercial Account, a Dealer must record the following for purchases of Nonferrous Scrap, Metal Articles, or Proprietary Articles:

- The Seller's or Deliverer's full name, current address, date of birth, and identification number from a motor vehicle operator's license, tribal ID card, or other current government-issued photo ID (*SB 488 added tribal ID cards*);
- The time and date of the purchase;
- The license number and state of issuance of the Seller's or Deliverer's vehicle;
- A description of the items received, including the weight of the articles, and for items other than plastic bulk merchandise containers, a description consistent with guidelines from a national recycling industry trade organization;
- For Nonferrous Scrap or Metal Articles, the Seller's signed declaration of ownership;
- For Proprietary Articles, either:
 - Documentation establishing the Seller's lawful possession of the article, such as a bill of sale, receipt, letter of authorization, or similar; or
 - The Dealer's documentation of a diligent inquiry into whether the Seller has a legal right to sell the article.

[back to top](#)

Recordkeeping - Commercial Account

For purchases of Nonferrous Scrap, Metal Articles, or Proprietary Articles from a Commercial Account, a Dealer must record the following:

- The full name of the Commercial Account;
- The business address and telephone number;
- The name of a contact at the Commercial Account who is responsible for the sale of such items to the Dealer;
- The time and date of each purchase;
- The value of each purchase;
- A description of the predominant types of Nonferrous Scrap, Metal Articles, or Proprietary Articles the Dealer has purchased from the Commercial Account.

[back to top](#)

Retention and Disclosure of Records

A Dealer must retain records for at least 2 years following a transaction; a Commercial Account's name, address, telephone number, and contact must be retained for 2 years after the most recent transaction with the Commercial Account. A Dealer may only disclose personally identifiable information as required by the Inspection or Reporting provisions or to a successor in interest to the Dealer. A law enforcement officer receiving information from a record or report may only disclose it to another law enforcement officer or agency.

[back to top](#)

Inspection

A Dealer shall make records available to a law enforcement officer who presents the agent's credentials at the Dealer's place of business during normal business hours.

[back to top](#)

Reporting

For a Proprietary Article purchased without documentation establishing lawful possession, a Dealer must report within 1 business day to a local law enforcement department:

- A description of the article; and
- The Seller's or Deliverer's identifying information.

A local law enforcement officer may request that all Dealers in the jurisdiction furnish reports of all purchases of Nonferrous Scrap, Metal Articles, and Proprietary Articles within 1 business day following the purchase with the following information:

- Each Seller's or Deliverer's name, date of birth, identification number and address;
- The license number and state of issuance on each Seller's or Deliverer's vehicle.

[back to top](#)

No Purchase from Minors

A Dealer may not purchase Scrap Metal from any person who is not over the age of 18.

[back to top](#)

Penalties

A Dealer who knowingly violates the law is subject to the following, with each day constituting a separate violation:

- 1st offense: up to a \$1,000 fine and/or up to 90 days imprisonment;
- 2nd offense: up to a \$10,000 fine and/or up to 9 months imprisonment;
- 3rd or subsequent: a Class I felony.

Under Theft ([§ 943.20](#)), "value" means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less. If the property stolen is Scrap Metal or a Plastic Bulk Merchandise Container, "value" also includes any costs that would be incurred in repairing or replacing any property damaged in the theft or removal of the scrap metal or plastic bulk merchandise container.

Under [§ 895.09](#), any owner of Nonferrous Scrap, a Metal Article, or a Proprietary Article, who incurs injury or loss as a result of a violation of the scrap metal law (§ 134.405) or theft ([§ 943.20](#)) may bring a civil action against the person who committed the violation. The person who incurs the loss has the burden of proving by the preponderance of evidence that a violation of § 134.405 or § 943.20 occurred. If the action prevails, the court shall grant all of the following:

- Actual damages and any lost profits attributable to the violation, reduced by the amount of any restitution collected for the same act under [§ 800.093](#) or [§ 973.20](#);
- Notwithstanding the limitations under [§ 799.25](#) or [§ 814.04](#), costs, disbursements, and reasonable attorney fees.
- Punitive damages, if the court finds the violation was committed for the purpose of a commercial advantage.

[back to top](#)

Preemption

A county, town, city, or village may enact an ordinance governing the sale or purchase of Scrap Metal or Bulk Plastic Merchandise Containers if the ordinance is not more stringent than the state law, except a 1st class city may enact a more stringent ordinance. Any city, village, town, or county may require by ordinance that Dealers submit the reports provided for in the Reporting provision in an electronic format to a law enforcement officer.

[back to top](#)

References and Recent Amendments

Statutes

- [Wis. Stat. Ch. 134, § 134.405](#) Purchase and sale of certain scrap material.
- [Wis. Stat. Ch. 895, Subch. I, § 895.09](#) Scrap metal or plastic bulk merchandise container theft; civil liability.

Recent Amendments

- [2018 Wisconsin SB 246](#) (effective 03/30/18)
- [2018 Wisconsin SB 488](#) (effective 04/05/18)

[back to top](#)

WYOMING

Wyo. Stat. Title 33, Chapter 18.
Junk Dealers
§ 33-18-101 to § 33-18-106

Wyoming Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 30, 2019

Overview of Provisions (use the links to travel directly to that section)

- [Definitions](#)
- [Recordkeeping](#)
- [Inspection](#)
- [Purchase Restrictions](#)
- [Penalty](#)
- [Local Powers not Impaired](#)
- [References and Recent Amendments](#)

Definitions

"Junk Dealer" is defined as "every person, firm, or corporation engaged in the business of buying or selling "second hand, or broken metals, such as copper, brass, lead, zinc, tin, steel, cast iron, rags, rubber, or waste paper".

[back to top](#)

Recordkeeping

Junk Dealers must keep a book written in ink *or a dedicated computer software program* recording the following information *in English at the time of transaction* for purchases or sales of junk metal or rubber goods:

- An accurate account and description of the junk metal or rubber goods;
- The Seller or Buyer's name and residence.

For purchases, a Junk Dealer must additionally record either of the following (optional for common household and personal items of less than \$50 market value):

- The license plate number of the Seller's vehicle, if applicable; or
- Verification of the Seller's name and residence through presentation of the Seller's U.S. federal or state-issued photo identification.

Dealers must post the following conspicuously in the office of their place of business.

- For purchases, the description and amount of junk articles and names and addresses of the Sellers;
- For sales, the names and addresses of the Purchasers.

A retention period is not specified.

[back to top](#)

Inspection

Records shall be open at all times to inspection by the sheriff of the county and his or her deputies, or any member of the police force of any city or town, in the county where the Dealer does business.

[back to top](#)

Purchase Restrictions

Dealers may not purchase articles from a person appearing to be intoxicated or from a person known to be a thief or to have been convicted of larceny. If the owner of stolen property "which has been so sold" is found, the property shall be returned without any payment from the owner.

[back to top](#)

Penalty

A dealer found guilty shall be subject to a:

- 1st offense: \$50 to \$200 fine &/or a maximum of 60 days imprisonment in the county jail;
- Subsequent offenses: \$100 to \$300 fine &/or 30 to 90 days imprisonment in the county jail.

[back to top](#)

Local Powers not Impaired

The law does not impair the power of cities or incorporated towns to license, tax, and regulate entities "engaging in the buying and selling of second hand metals."

[back to top](#)

References and Recent Amendments

Statutes

- [Wyo. Stat.](#) Title 33, Chapter 18. Junk Dealers; § 33-18-101 to § 33-18-106

Recent Amendments

- [2015 Wyoming SB 11](#) (effective July 1, 2016)

[back to top](#)